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No. 05-908

Supreme Court, U.S.
FILED
AUG 2 1 2006
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

PARENTS INVOLVED IN COMMUNITY SCHOOLS,

Petitioner,

v.

SEATTLE SCHOOL DISTRICT NO. 1, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED JANUARY 18, 2006
CERTIORARI GRANTED JUNE 5, 2006

TABLE OF CONTENTS

Page

Appendix A — Relevant Docket Entries Of The United States Court Of Appeals For The Ninth Circuit 1a

Appendix B — Relevant Docket Entries Of The United States District Court For The Western District Of Washington (Seattle) 19a

Appendix C — Complaint For Declaratory, Injunctive, And Other Relief Dated July 17, 2000 And Filed July 19, 2000 ..... 28a

Appendix D — Declaration Of Morgan Lewis In Support Of Defendants' Motion For Partial Summary Judgment Dated December 21, 2000 ... 36a

Appendix E — Declaration Of Rebecca Taylor In Support Of Defendants' Motion For Partial Summary Judgment Dated December 19, 2000 ... 46a

Appendix F — Comprehensive Plan Student Assignment; Resolution 1996-17 Dated December 29, 2000 (Including Exhibits A-C) 49a

Appendix G — School Board Action (11/4/98) (Including Attachment A — Basic Framework) ... 90a

Appendix H — Findings And Conclusions Of School Board (School Board Minutes) Dated November 17, 1999 And School Board Action Dated November 15, 2000 ..... 109a

Contents

Page

Appendix I — Summary Of SAT Scores By High School 142a

Appendix J — Letters Recommending And Approving Andy Meeks For Ballard Biotech Program 143a

Appendix K — Summary Of AP Statistics By High School 147a

Appendix L — School Board Action Upon Recommendation Of Joseph Olchefske To Approve Assignment Plan 148a

Appendix M — Comparison Of Seattle High Schools As Measured By Student Success At UW, And UW Ratings Of The Schools 151a

Appendix N — Plaintiff's First Requests For Admission And Defendants' Responses (Excerpts) 152a

Appendix O — Declaration Of Jill Kurfirst In Support Of PICS' Motion For Partial Summary Judgment On State Law Claims Dated February 12, 2001 ..... 155a

Appendix P — Supplemental Declaration Of Morgan Lewis In Support Of Defendants' Motion For Partial Summary Judgment Dated February 16, 2001 ..... 161a

Contents

Page

Appendix Q — School Board Action (11/17/99) Re: Review Of Assignment Plans 165a

Appendix R — Second Supplemental Declaration Of Morgan Lewis Re: Plaintiff's Motion For Partial Summary Judgment Of The United States District Court Western District Of Washington At Seattle Dated March 5, 2001 ..... 170a

Appendix S — Excerpted Deposition Upon Oral Examination Of Jill Kurfirst Dated February 5, 2001 ..... 176a

Appendix T — Excerpted Deposition Upon Oral Examination Of Morgan Lewis Dated January 22, 2001 ..... 187a

Appendix U — Excerpted Deposition Upon Oral Examination Of Donald Peter Nielsen Dated January 29, 2001 ..... 211a

Appendix V — Excerpted Deposition Upon Oral Examination Of Joseph Olchefske Dated January 31, 2001 ..... 223a

Appendix W — Excerpted Deposition Upon Oral Examination Of Michael Royce Preston Dated January 26, 2001 ..... 248a

Appendix X — Excerpted Deposition Upon Oral Examination Of Barbara Schaad-Lamphere Dated January 25, 2001 ..... 251a

Contents

Page

Appendix Y — Excerpted Telephonic Deposition Upon Oral Examination Of William T. Trent, Ph.d. Dated February 2, 2001 ..... 275a

Appendix Z — 2000-01 Enrollment By Race In Oversubscribed High Schools 283a

Appendix AA — 2000-01 Enrollment By Race In Undersubscribed High Schools 288a

Appendix BB — Declaration Of David J. Armor, Ph.d. Dated March 5, 2001 ..... 293a

Appendix CC — Defendant School District's First Request For Production And Plaintiff's Responses Thereto (Excerpts) 299a

Appendix DD — Excerpted Deposition Upon Oral Examination Of John Vacchiery Dated January 25, 2001 ..... 302a

Appendix EE — Minority And Majority Assignments 308a

Appendix FF — Individual School Summaries, All Regular High Schools (1999-2000 Demographics) 310a

The following opinions and order have been omitted in the printing of this joint appendix because they appear in the appendix of the Petition for a Writ of Certiorari on the following pages:

Opinion Of The United States Court Of Appeals For The Ninth Circuit Filed October 20, 2005 ..... 1a

Opinion Of The United States Court Of Appeals For The Ninth Circuit Filed July 27, 2004 ..... 129a

Order Granting Defendants' Motions For Summary Judgment Of The United States District Court For The Western District Of Washington Dated April 6, 2001 ..... 269a

APPENDIX A — RELEVANT DOCKET ENTRIES OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

General Docket
US Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 01-35450 Filed: 5/14/01
Nsuit: 3440 Other civil rights (Fed)
Parents Involved, et al v. Seattle School Dist, et al
Appeal from: Western District of Washington (Seattle)

Case type information:
1) civil
2) private
3) (null)

Lower court information:

District: 0981-2: CV-00-01205-BJR
Court Reporter: Laurene Kelly, Court Reporter
Presiding Judge: Barbara Jacobs Rothstein, District Judge
Date Filed: 7/18/00
Date order/judgment: 4/6/01
Date NOA filed: 5/1/01

Fee status: paid

Prior cases:
None

Current cases:
None

Appendix A

Docket as of June 14, 2006 11:15 pm

01-35450 Parents Involved, et al v. Seattle School Dist, et al

PARENTS INVOLVED IN COMMUNITY
SCHOOLS, a Washington
nonprofit corporation
Plaintiff-counter-
defendant - Appellant

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v.

Appendix A

SEATTLE SCHOOL DISTRICT, NO. 1,
a political subdivision of the
State of Washington
Defendant-counter-
claimant-Appellee

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Mark S. Green, Esq.
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P.O. Box 34165
MS 32-151
Seattle, WA 98124-1165

JOSEPH OLCHEFSKE, in his
official capacity as
superintendent
Defendant-counter-
claimant-Appellee

Michael F. Madden, Esq.
(See above)
[COR LD NTC ret]

Mark S. Green, Esq.
(See above)
[COR LD NTC ret]

Appendix A

BARBARA SCHAAD-LAMPHERE, in
her official capacity as President of the
Board of Directors of Seattle Public Schools
Defendant-counter-
claimant - Appellee

Michael F. Madden, Esq.
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[COR LD NTC ret]

Mark S. Green, Esq.
(See above)
[COR LD NTC ret]

DONALD NEILSON, in his official
capacity as Vice President of the Board
of Directors of Seattle Public Schools
Defendant-counter-
claimant - Appellee

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(See above)
[COR LD NTC ret]

Mark S. Green, Esq.
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Appendix A

STEVEN . BROWN
Defendant-counter-
claimant - Appellee

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JAN KUMASAKA
Defendant-counter-
claimant - Appellee

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Mark S. Green, Esq.
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Appendix A

MICHAEL PRESTON
Defendant-counter-
claimant - Appellee

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Mark S. Green, Esq.
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NANCY WALDMAN, in their
official capacities as members
of the board of Directors
Defendant-counter-
claimant - Appellee

Michael F. Madden, Esq.
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Appendix A

AMERICAN CIVIL RIGHTS INSTITUTE,
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AND PACIFIC LEGAL FOUNDATION
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Appendix A

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Appendix A

PACIFIC LEGAL FOUNDATION
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[COR LD NTC ret]

Sharon L. Browne
(See above)
[COR LD NTC ret]

01-35450 Parents Involved, et al v. Seattle School Dist, et al

PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation

Plaintiff-counter-defendant - Appellant

v.

SEATTLE SCHOOL DISTRICT, NO. 1, a political subdivision of the State of Washington; JOSEPH OLCHEFSKE, in his official capacity as superintendent; BARBARA SCHAAD-LAMPHERE, in her official capacity as President of the Board of Directors of Seattle Public Schools; DONALD NEILSON, in his official capacity as Vice President of the Board of Directors of Seattle Public Schools; STEVEN . BROWN; JAN KUMASAKA; MICHAEL PRESTON; NANCY WALDMAN, in their official capacities as members of the board of Directors

Defendants-counter-claimants - Appellees

Appendix A

AMERICAN CIVIL RIGHTS INSTITUTE, AMERICAN CIVIL RIGHTS UNION, CENTER FOR EQUAL OPPORTUNITY, AND PACIFIC LEGAL FOUNDATION; AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON FOUNDATION; CENTER FOR EQUAL OPPORTUNITY; PACIFIC LEGAL FOUNDATION

Amici Curiae

01-35450 Parents Involved, et al v. Seattle School Dist, et al

* * *

7/24/01 Filed original and 15 copies Appellant Parents Involved opening brief (Informal: no) 59 pages and five excerpts of record in 03volumes; served on 7/17/01 [01-35450] (gail)

7/26/01 Filed original and 15 copies Amicus Curiae's (American Civil Rights Institute, American Civil Rights Union, Center for Equal Opportunity, and Pacific Legal Foundation) brief of 29 pages w/stmnt of consent from all parties in supp of Aplts ;served on 7/23/01 [01-35450] (gail)

* * *

9/10/01 Filed original and 15 copies Appellees Nancy Waldman, et al.'s brief, 69 pages, 02 Exc. vols: served on 9/7/01 (minor defcy: missing st of rel cases) Notified counsel. [01-35450] record on appeal due 9/27/01; (gail)

Appendix A

9/11/01 Filed original and 15 copies Amicus Curiae ACLU of Washington's brief of 28 pages in supp of Aple (w/consent of all parties); served on 9/7/01 [01-35450] (gail)

* * *

10/9/01 Filed original and 15 copies Parents Involved reply brief, (Informal: no) 33 pages; served on 10/5/01 [01-35450] (gail)

* * *

12/4/01 ARGUED AND SUBMITTED TO Thomas M. Reavley, Diarmuid F. O'SCANNLAIN, Susan P. GRABER [01-35450] (sb)

4/16/02 FILED OPINION: REVERSED (Terminated on the Merits after Oral Hearing; Reversed; Written, Signed, Published. Thomas M. Reavley; Diarmuid F. O'SCANNLAIN, author; Susan P. GRABER, concurring.) FILED AND ENTERED JUDGMENT. [01-35450] (gail)

* * *

4/26/02 Filed order (Thomas M. Reavley, Diarmuid F. O'SCANNLAIN, Susan P. GRABER,): Aplt's motion for an injunction pending the filing and disposition of any pet for rhrg or rhrg en banc is GRANTED. The Aples are hereby enjoined from using the racial tiebreaker in making high school assignments pending further order of this ct. The

mtn for immediate issuance of the mandate is DENIED. [4415624-1] [01-35450] (gail)

4/29/02 [4418973] Filed original and 50 copies Appellee Seattle School Dist, et. al. petition for rehearing with suggestion for rehearing en banc 19 p.pages, served on 4/26/02 PANEL AND ACTIVE JUDGES. [01-35450] (kkw)

* * *

6/17/02 Filed order (Thomas M. Reavley, Diarmuid F. O'SCANNLAIN, Susan P. GRABER,): The petition for rehearing is granted. Our previous opn, filed on April 16, 2002....is hereby withdrawn, and our order granting injunction, filed on April 26, 2002...is hereby vacated....Certification to the Supreme Court of Washington is made by separate order filed simultaneously herewith. [4418973-1] [4410076-1] [4410076-2] [01-35450] (gail)

6/17/02 Filed order (Thomas M. Reavley, Diarmuid F. O'SCANNLAIN, Susan P. GRABER,): We certify to the Washington Supreme Court the question set forth in Part III of this order....The Clerk of the Court is hereby directed to transmit forthwith to the Washington Supreme Court, under official seal of the Ninth Circuit, a copy of this order and request for certification and all relevant briefs and excerpts of record....IT IS SO

ORDERED. (See order for complete text.) [01-35450] (gail)

* * *

6/30/03 Received copy State Court opinion filed on 06/26/03, re: we, therefore, answer the certified question in the negative, and return the case to the federal court for further proceedings consistent with our resolution of the questions of Washington law. (PANEL) [01-35450] (sm)

* * *

9/3/03 Filed Supreme Court of Washington order (SC Date: 09/02/03), re: The Plaintiff-counter-defendant-appellant's motion for reconsideration is DENIED. (PANEL) [01-35450] (sm)

9/8/03 Filed Supreme Court of Washington's Certificate of Finality filed and entered in No. 72712-1 on 09/03/03, re: This certifies that the attached opinion of the Supreme Court of the State of Washington was filed on 06/26/03, and became final on 09/02/03. Pursuant to Rules of Appellate Procedure 16.16(f) and14.4, costs are taxed as follows: costs in the amount of $190.67 are diveded equally between the parties, pursuant to RAP 16.16 (PANEL) [01-35450] (sm)

* * *

Appendix A

9/22/03 Filed order (Thomas M. Reavley, Diarmuid F. O'SCANNLAIN, Susan P. GRABER,): The parties are ordered to file supp'l briefs addressing the effect of the USSC's recent decisions in Grutter v. Bollinger, 123 S. Ct. 2325 (6/23/03), and Gratz v. Bollinger, 123 S. Ct. 2411 (6/23/03), upon the merits of the aplt's claims before this court. The aplt shall file an initial supp'l brief no later than 21 days from the filing date of this order. The aples shall file a response no later than 21 days thereafter. The aplt may file a reply brief within 14 days of the filing of the response brf. The brfs shall not exceed 20 pages in length. (phone/faxed 3:30) [01-35450] (hh)

10/14/03 Filed original and 5 copies Appellant Parents Involved supplemental brief of 19 pages, served on 10/10/03 (PANEL) [01-35450] (ji)

10/16/03 Filed Amicus American Civil Rgts, ACLU of Washington, Center Equal Oppor, Pacific Legal Found's motion to file amucus curiae supplemental brief in support of aplt and in support of reversal served on 10/14/03 (panel) [4871268] (ji)

10/16/03 Received Amicus American Civil Rgts, ACLU of Washington, Center Equal Oppor, Pacific Legal Found's brief in 15 copies of 10 pages; deficient: Motion pending; served on 10/14/03 [01-35450] (ji)

* * *

Appendix A

10/27/03 Filed original and 15 copies Pacific Legal Foundation, American Civil Rights Institute, ACLU of Washington and Center Equal Opportunity's supplemental amicus brief of 10 pages served on 10/14/03, pursuant to order of 10/27/03 (PANEL) [01-35450] (sm)

11/3/03 Filed original and 15 copies Aples Nancy Waldman, Michael Preston, Jan Kumasaka, Steven . Brown, Donald Neilson, Barbara Schaad-Lamphere, Joseph Olchefske, Seattle School Dist supplemental brief of 17 pages, served on 10/31/03 (PANEL) [01-35450] (ji)

* * *

11/14/03 Filed original and 15 copies Amicus ACLU of Washington supplemental brief of 10 pages, with minor defcy: Incorrect color covers. served on 11/12/03 (Panel) [01-35450] (ji)

11/19/03 Filed original and 15 copies Appellant Parents Involved supplemental reply brief of 19 pages, served on 11/14/03 (panel) [01-35450] (ji)

* * *

12/15/03 ARGUED AND SUBMITTED TO Thomas M. Reavley, Diarmuid F. O'SCANNLAIN, Susan P. GRABER [01-35450] (ms)

2/10/04 Rec'd amici ACLU of Washington, American Civir Rights Institute, American Civil Rights Union, Ctr

for Equal Opp, and Pacific Legal Foundation and supp brf, 20 copies (Enbanc Panel) [01-35450] (ji)

* * *

7/27/04 FILED OPINION: REVERSED and REMANDED (Terminated on the Merits after Oral Hearing; Reversed; Written, Signed, Published. Thomas M. Reavley; Diarmuid F. O'SCANNLAIN, author; Susan P. GRABER, dissenting.) FILED AND ENTERED JUDGMENT. REVERSED and REMANDED. Because the School District's use of the racial tie-braker violates the equal protection mandate of the Fourteenth Amendment, we REVERSED the decision of the District Court and REMAND with intstructions to ENJOIN the School District from using the racial tiebreaker, as most recently constituted, in making future high school assignments. [01-35450] (ji)

8/4/04 Filed motion and deputy clerk order :(Deputy Clerk: ji) Aples motion to extend time to file a petition for rehearing en banc is granted. Petition for rehearing en banc is due 8/17/04. (Motion recvd 8/3/04) [01-35450] [01-35450] (ji)

* * *

8/17/04 Filed original and 50 copies Appellee Nancy Waldman, Appellee Michael Preston, Appellee Jan Kumasaka, Appellee Steven . Brown, Appellee Donald Neilson, Appellee Barbara

Appendix A

Schaad-Lamphere, Appellee Joseph Olchefske, Appellee Seattle School Dist petition for panel rehearing and petition for rehearing en banc 18 p.pages, served on 8/16/04 (panel and active judges) [01-35450] (ji)

* * *

8/20/04 Filed order (Thomas M. Reavley, Diarmuid F. O'SCANNLAIN, Susan P. GRABER,): The aplt is directed to file a response to aples' petition for rehearing and petition for rehearing en banc filed with this court on 8/17/04. The aplt shall file the response within 21 days of the filiing date of this order, and the aplt shall provide this court with 50 copies. [01-35450] (ji)

* * *

9/10/04 Filed Appellant Parents Involved's response to petition opposing petition for enbanc rehearing, served on 9/9/04 (panel and active judges) [01-35450] (ji)

* * *

2/1/05 Filed order (Mary M. SCHROEDER,): Upon the vote of a majority of nonrecused regular active judges of this court, it is ordered that this case be reheard by the en banc court pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to this court or

any district court of the Ninth Circuit, except to the extent adopted by the en banc court. [01-35450] [01-35450] (ji)

* * *

6/21/05 ARGUED AND SUBMITTED TO Mary M. SCHROEDER, Harry PREGERSON, Alex KOZINSKI, Andrew J. KLEINFELD, Michael D. HAWKINS, William A. FLETCHER, Raymond C. FISHER, Richard C. TALLMAN, Johnnie B. RAWLINSON, CONSUELO M. CALLAHAN, Carlos T. BEA [01-35450] (gb)

* * *

10/20/05 FILED OPINION: AFFIRMED (Terminated on the Merits after Oral Hearing; Affirmed; Written, Signed, Published. Heard en banc; Mary M. SCHROEDER, concurring; Harry PREGERSON, concurring; Alex KOZINSKI, concurring; Andrew J. KLEINFELD, dissenting; Michael D. HAWKINS, concurring; William A. FLETCHER, concurring; Raymond C. FISHER, author; Richard C. TALLMAN, dissenting; Johnnie B. RAWLINSON, concurring; CONSUELO M. CALLAHAN, dissenting; Carlos T. BEA, concurring.) FILED AND ENTERED JUDGMENT. [01-35450] (ji)

* * * *

APPENDIX B — RELEVANT DOCKET ENTRIES OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON (SEATTLE)

U.S. District Court
WESTERN DISTRICT OF WASHINGTON (Seattle)
CIVIL DOCKET FOR CASE #: 2:00-cv-01205-BJR

PICS v. Seattle School Dist, et al
Assigned to: Hon. Barbara J. Rothstein
Demand: $0
Cause: 42:1983 Civil Rights Act

Date Filed: 07/18/2000
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

07/18/2000	COMPLAINT (Summons(es) issued) Receipt # 300864 (PM) Modified on 07/28/2000 (Entered: 07/24/2000)
	* * *
07/28/2000	ANSWER to complaint [1-1] and COUNTERCLAIM by defendant against plaintiff (VK) (Entered: 08/02/2000)
	* * *
08/01/2000	ANSWER TO COUNTERCLAIM [4-2] by counter-defendant PICS (KERR) (Entered: 08/03/2000)
	* * *

Appendix B

12/29/2000	MEMORANDUM by defendants in support of motion for partial summary judgment [21-1] (KERR) (Entered: 12/29/2000)
12/29/2000	DECLARATION of Morgan Lewis by defendants re motion for partial summary judgment [21-1] (KERR) (Entered: 12/29/2000)
12/29/2000	DECLARATION of Rebecca Taylor by defendants re motion for partial summary judgment [21-1] (KERR) (Entered: 12/29/2000)
12/29/2000	DECLARATION of Michael Madden by defendants in support of motion for partial summary judgment [21-1] (KERR) (Entered: 12/29/2000)

* * *

02/12/2001	Cross MOTION by plaintiff for partial summary judgment on state law claims (Oral Argument Requested) NOTED FOR 3/9/01 (VK) (Entered: 02/13/2001)
02/12/2001	MEMORANDUM by plaintiff in support of cross motion for partial summary judgment on state law claims (Oral Argument Requested) [49-1], and opposing defts' motion for partial summary judgment [21-1] (VK) (Entered: 02/13/2001)

Appendix B

02/12/2001 DECLARATION of Harry J. F. Korrell by plaintiff re attachments to pltf's memo supporting its motion for partial summary judgment on state law claims (Oral Argument Requested) [49-1], and opposing defts' motion for partial summary judgment [21-1](FILED IN EXPANDO) (VK) (Entered: 02/13/2001)

02/12/2001 DECLARATION of Jill Kurfirst by plaintiff re motion for partial summary judgment on state law claims (Oral Argument Requested) [49-1] (VK) (Entered: 02/13/2001)

* * *

02/15/2001 MOTION by defendants for partial summary judgment re compelling interests NOTED FOR 3/9/01 (CL) (Entered: 02/16/2001)

02/15/2001 MEMORANDUM by defendants in support of motion for partial summary judgment re compelling interests [54-1] (CL) (Entered: 02/16/2001)

02/15/2001 DECLARATION of Nan Stavnshoj by defendants, exhibits attached. (CL) (Entered: 02/16/2001)

02/15/2001 DECLARATION of Michael Madden by defendants in support of motion for partial summary judgment re compelling interests [54-1], exhibits attached. (CL) (Entered: 02/16/2001)

Appendix B

02/15/2001 DECLARATION of Wm T. Trent by defendants, exhibits attached. (CL) (Entered: 02/16/2001)

02/15/2001 DECLARATION of John Vacchiery by defendants, exhibits attached. (CL) (Entered: 02/16/2001)

02/15/2001 DECLARATION of Eric Benson by defendants (CL) (Entered: 02/16/2001)

* * *

02/15/2001 MOTION by plaintiff PICS for partial summary judgment on federal law claims, OA Req'd NOTED FOR 3/9/01 (CL) (Entered: 02/20/2001)

02/15/2001 MEMORANDUM by plaintiff PICS in support of motion for partial summary judgment on federal law claims, OA Req'd [62-1] (CL) (Entered: 02/20/2001)

* * *

02/15/2001 REPLY by defendants TO RESPONSE to motion for partial summary judgment [21-1],and in OPPOSITION to pltfs' cross mtn (CL) Modified on 02/20/2001 (Entered: 02/20/2001)

Appendix B

02/15/2001 RESPONSE by defendants to motion for partial summary judgment on state law claims (Oral Argument Requested) [49-1] (CL) (Entered: 02/20/2001)

02/15/2001 SUPPLEMENTAL DECLARATION of Morgan Lewis by defendants in support of motion for partial summary judgment [21-1] (CL) (Entered: 02/20/2001)

02/15/2001 DECLARATION of Michael Madden by defendant authenticating exhibits to dfts' reply br in support of motion response [65-1] (CL) (Entered: 02/20/2001)

* * *

02/16/2001 DECLARATION of Harry J.F. Korrell by plaintiff PICS regarding attachments to pltfs memorandum supporting its mtn for partial sum jgm on the federal law claims, exhibits attached. (FILED IN EXPANDO) (CL) Modified on 02/20/2001 (Entered: 02/20/2001)

* * *

02/20/2001 CORRECTED MEMORANDUM by plaintiff in support of motion for partial summary judgment on federal law claims, OA Req'd [62-1] (KERR) (Entered: 02/22/2001)

* * *

Appendix B

03/05/2001	RESPONSE (OPPOSITION) to motion for partial summary judgment on federal lawclaims [62-1] and CROSS MOTION by defendants re narrow tailoring NOTED FOR 3/23/01. Cross motion not noted-ltr sent (RS) (Entered: 03/07/2001)
03/05/2001	DECLARATION of Michael Madden by defendant re: motion response [75-1], re motion re narrow tailoring [75-2] (RS) (Entered: 03/07/2001)
03/05/2001	SECOND SUPPLEMENTAL DECLARATION of Morgan Lewis by defendants re: motion response [75-1] (RS) (Entered: 03/07/2001)
03/05/2001	DECLARATION of Joseph Olchefske by defendant re: motion response [75-1] (RS) (Entered: 03/07/2001)

* * *

03/05/2001	RESPONSE (MEMORANDUM OPPOSING) by plaintiff to motion for partial summary judgment re compelling interests [54-1] OA REQ'D by pltf (RS) (Entered:03/07/2001)
03/05/2001	DECLARATION of David Armor PhD by plaintiff re: motion response [80-1] (RS) (Entered: 03/07/2001)

* * *

Appendix B

03/05/2001 DECLARATION of Harry J.F. Korrell by plaintiff re: motion response [80-1] (RS) (Entered: 07/12/2001)

03/08/2001 REPLY by defendants TO RESPONSE to motion for partial summary judgment re compelling interests [54-1] (RS) (Entered: 03/09/2001)

03/08/2001 DECLARATION of Michael Madden by defendant re: motion reply [83-1] (RS) (Entered: 03/09/2001)

* * *

03/08/2001 REPLY by plaintiff TO RESPONSE to motion for partial summary judgment on federal law claims, OA Req'd [62-1] (RS) (Entered: 03/09/2001)

03/08/2001 REPLY by plaintiff TO RESPONSE to motion for partial summary judgment on state law claims [49-1] (RS) (Entered: 03/09/2001)

03/08/2001 DECLARATION of Harry J.F. Korrell by plaintiff re: motion reply [86-1] (filed in expando) (RS) (Entered: 03/09/2001)

* * *

Appendix B

03/28/2001	MINUTES OF ORAL ARGUMENT ON CROSS MOTIONS FOR SUMMARY JGM: BJR; Dep Clerk: K Lane; CR: Laurene Kelly; cnsl present. After hearing arguments of counsel, ct takes matter under advisement (RS) (Entered: 03/30/2001)
04/05/2001	MINUTE ORDER: by Judge Barbara J. Rothstein DENYING dfts' motion to strike decl of Harry JF Korrell attachments 18, 27 and 28 and the decl of Kathryn Loppnow [90-1] (cc: counsel, Judge) (RS) (Entered: 04/06/2001)
04/06/2001	ORDER by Judge Barbara J. Rothstein Defts' motions for sj. GRANTING defts motion for partial summary judgment re compelling interests [54-1], DENYING pltf's motion for partial summary judgment on federal law claims, OA Req'd [62-1], DENYING pltf's motion for partial summary judgment on state law claims (Oral Argument Requested) [49-1], GRANTING defts' motion for partial summary judgment (cc: counsel, Judge) (MD) (Entered: 04/06/2001)
04/06/2001	JUDGMENT: by Judge Barbara J. Rothstein, Defts' motions for sj are granted and pltf's motions for sj are denied. (cc: counsel, Judge, Jgm. Book) Entered on: 4/6/01 (MD) (Entered: 04/06/2001)

* * *

Appendix B

05/01/2001	NOTICE OF APPEAL (01-35450)by plaintiff PICS from Dist. Court decision [99-2], [98-1] (cc: CCA, Judge, counsel) (JK) Modified on 05/17/2001 (Entered: 05/03/2001)

* * * *

APPENDIX C — COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND OTHER RELIEF DATED JULY 17, 2000 AND FILED JULY 19, 2000

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

No. C00-1205P

PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation,

Plaintiff,

v.

SEATTLE SCHOOL DISTRICT NO. 1, a political subdivision of the State of Washington; JOSEPH OLCHEFSKE, in his official capacity as superintendent; BARBARA SCHAAD-LAMPHERE, in her official capacity as President of the Board of Directors of Seattle Public Schools; and DONALD NIELSON, in his official capacity as Vice President of the Board of Directors of Seattle Public Schools; STEVEN BROWN; JAN KUMASAKA; MICHAEL PRESTON; BARBARA PETERSON; and NANCY WALDMAN, in their official capacities as members of the Board of Directors,

Defendants.

Appendix C

COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND OTHER RELIEF

I. NATURE OF THE CASE

1. This suit is brought by Parents Involved in Community Schools ("Parents" or "PICS") challenging the defendants' impermissible use of race in deciding which students may attend specific high schools in the Seattle Public School system. PICS is comprised of parents from neighborhoods around the city whose children have been or will likely be denied admission to the high schools of their choice because of their race. Many of these parents have been dedicated supporters of Seattle public schools, including some who have volunteered hundreds of hours every year in support of its projects over the past 10 years. The school district's policy of making many of its student-admission decisions based on race violates both federal and state law. This suit seeks to stop that unlawful and discriminatory practice. PICS requests (1) a preliminary injunction prohibiting defendants from using race as a factor in student admissions in high schools pending the resolution of this lawsuit; (2) a declaratory judgment that defendants' race-based student admissions plan for high schools violates federal and state law and (3) an injunction permanently prohibiting defendants from using race as a factor in student admissions plans in high schools.

II. PARTIES

2. Parents Involved in Community Schools is a Washington nonprofit corporation whose stated purpose is

to promote the well-being of community public schools and, to that end, to seek school placement criteria that comply with the laws requiring equal treatment.

3. PICS' Board of Directors and members include parents whose children were denied or will likely be denied admission to the high schools of their choice because of their race. Some of these children were denied admission to their first-choice schools, some to their first and second-choice schools, and some to their first, second, and third-choice schools. Some members of PICS with children in middle schools in the Seattle Public School system fear that their children will also be denied admission to the high schools of their choice when they apply for those schools in the future. All of these parents and their children have been and will be forced to compete for seats at certain high schools in a system that uses race as a deciding factor in many of its admissions decisions.

4. Seattle School District No. 1 ("District") is a political subdivision of the State of Washington that owns and operates public schools in Seattle, including high schools. The District, at the direction of its superintendent, implements policies, including admissions policies, established by its board of directors. The District is a recipient of federal funds.

5. Joseph Olchefske is the Superintendent of Seattle Public Schools and as such is responsible for implementing policies, including admissions policies, established by the District's board of directors (the "Board").

6. Barbara Schaad-Lamphere is the president of the Board; Donald Nielson is its Vice President.

7. Steve Brown, Jan Kumasaka, Michael Preston, Barbara Peterson, and Nancy Waldman are members of the Board.

III. JURISDICTION AND VENUE

8. This action arises under the Fourteenth Amendment to the United States Constitution, under 42 U.S.C. §§ 1983 and 2000d *et seq.*, and under RCW 49.60.400. The court has jurisdiction of the federal law claims under 28 U.S.C. §§ 1331 and 1343 and jurisdiction of the state law claim under 28 U.S.C. § 1367.

9. Venue is proper in this Court under 28 U.S.C. § 1391 and the court has personal jurisdiction over defendants because the actions giving rise to the claims were committed in the Western District of Washington.

IV. ADDITIONAL FACTS AND LEGAL CLAIMS

A. Defendants' Race-Based Admissions System

10. The District operates 10 public high schools in Seattle. It requires all students who attend its schools to identify their race on a form filed with the District.

11. The District and other defendants have determined that the public high school population in Seattle is

approximately 40% white and 60% "minority" or nonwhite.

12. Defendants have decided that the racial balance of each of its 10 high schools should approximate that of the public high school population and have adopted policies designed to achieve a racial balance of approximately 40% white and 60% minority in each school.

13. To this end, when deciding who will be admitted to which schools, the District considers whether admission of a particular student to a particular school will further or impede achievement of the desired racial balance.

B. The Parents' Efforts to Enroll Their Children in Schools of Their Choice

14. Earlier this year, several members of PICS sought to enroll their children in specific high schools for the upcoming 2000-2001 school year. The applications were submitted on time and indicated preferences among a list of schools. Their choices were based on variety of factors, including proximity to home, educational programs offered, and extracurricular activities offered. Several children of PICS members, and many other children, were denied admission to their schools of choice on the basis of race. If the children had been of a different race (that is, if the white children had been of a minority race or if the minority children had been white) they would not have been denied admission to the schools of their choice, but instead would have been admitted to one of the schools they had selected. However, as a result of the District's race-based admissions policy, these children were required to attend schools that were farther away from their

homes than the schools they had selected or that did not offer the educational or extracurricular activities available at the schools they selected. The parents of children affected by these race-based admissions decisions are referred to herein as "aggrieved parents."

15. When they learned of the admissions decisions affecting their children, several of the aggrieved parents petitioned the District, through its appeals processes, to change the decisions. These appeals were denied.

16. Several of the aggrieved parents also attended School Board meetings and explained their concerns. They have repeatedly asked, both at meetings and in writing, that the defendants change their policies. Defendants denied or ignored these requests.

17. Receiving no response to their requests, several of the aggrieved parents formed PICS and made a final attempt to persuade defendants to abandon their race-based policies. When a final attempt failed, PICS decided to file this suit.

C. The Legal Bases of the Claims

18. The acts of defendants described above were committed under color of law. Defendants have discriminated and will likely continue to discriminate against members of PICS and their children on the basis of race. Defendants' acts have denied and will likely continue to deny members of PICS and their children the equal protection of the laws. Defendants' acts violate the Fourteenth Amendment of the United States Constitution and are actionable under 42 U.S.C. § 1983.

19. Defendant Seattle Public Schools is a recipient of public funds, and its discrimination against the members of PICS and their children on the basis of their race, color, or ethnicity violates Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq*.

20. The acts of defendants described above violate RCW 49.60.400, which specifically prohibits school districts in Washington from discriminating against or granting preferential treatment to any individual or group on the basis of race, color, ethnicity, or national origin.

21. Plaintiff is entitled to injunctive relief against defendants as there is no plain, adequate, or speedy remedy at law to prevent continuation of the acts complained of herein and because the harm they have suffered and will otherwise continue to suffer is irreparable.

V. RELIEF SOUGHT

Wherefore, plaintiff prays for the following relief:

A. A preliminary injunction prohibiting defendants from discriminating on the basis of race in high school admissions pending the outcome of this suit;

B. A declaratory judgment by the court that defendants' policy of considering race in its admissions decisions violates the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964, and RCW 49.60.400;

Appendix C

C. A permanent injunction prohibiting defendants from discriminating on the basis of race in their high school admissions decisions;

D. Attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and RCW 49.60;

E. Any other relief that is appropriate and just.

DATED this 17th day of July, 2000.

Davis Wright Tremaine LLP
Attorneys for Plaintiff PICS

By s/ Daniel B. Ritter
Daniel B. Ritter
WSBA # 2234

Harry J. F. Korrell
WSBA # 23173

APPENDIX D — DECLARATION OF MORGAN LEWIS IN SUPPORT OF DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT DATED DECEMBER 21, 2000

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NO. C00-1205R

NOTE ON MOTION CALENDAR:
Friday, February 2, 2001

PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1, a political subdivision of the State of Washington; JOSEPH OLCHEFSKE, in his official capacity as superintendent; BARBARA SCHAAD-LAMPHERE, in her official capacity as President of the Board of Directors of Seattle Public Schools; and DONALD NIELSON, in his official capacity as Vice President of the Board of Directors of Seattle Public Schools; STEVEN BROWN, JAN KUMASAKA; MICHAEL PRESTON, BARBARA PETERSON; and NANCY WALDMAN, in their official capacities as members of the Board of Directors,

Defendants.

Appendix D

DECLARATION OF MORGAN LEWIS IN SUPPORT OF DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

I, Morgan Lewis, declare:

1. I am the Manager of Enrollment Planning, Technical Support and Demographics for Seattle School District No. 1. My office is located at 4141 — 4th Ave. S., Seattle, WA 98134. I received my master's degree in economics from the University of Washington, which included specialized training in statistics, projections, demographic analysis, and forecasting. I am competent to testify in this action and make this declaration on personal knowledge and the official records and files of the Seattle School District.

2. Seattle schools currently have an enrollment of 59.9% racial minority students and 40.1% white students. By comparison, in 1979, Seattle's public school population was about 62% white. The private schools in Seattle have 80% white students and 20% racial minority students. Meanwhile, the city's overall racial demographic is about 75% white and 25% people of color, and its population of school age children is about 50% white.

3. The Seattle School District operates ten regular high schools. (Some high school education is also given at alternative or special schools.) The Student Assignment Plan adopted by the Board of Directors of the Seattle School District permits high school students to attend any of these high schools, provided that there are seats available. For the 2000-01 school year, demand was particularly strong for five

of those ten high schools: 82% of all entering 9th graders selected one of these five schools as their first choice. This choice pattern resulted in "oversubscription" at Ballard, Nathan Hale, Roosevelt, Franklin and Garfield High Schools; i.e., more students selected those schools than there were seats available. Where a high school is oversubscribed, the Student Assignment Plan allocates seats in those schools based on a set of "tie-breakers" which are sequentially applied in the following order: (1) whether the student has a sibling already attending the school; (2) if a school is out of racial balance, whether the student's assignment will serve to bring the school into balance; (3) closest distance from the student's residence to the school; and (4) a lottery. Under the Student Assignment Policy in effect for the 2000-01 school year, "racial imbalance" was defined as having a school population whose percentage of minorities or whites was 10% or more different from the district-wide racial demographic of 59 % minority/41% white. For next year's assignments (2001-02), the Board has changed the definition of racial imbalance to 15% or greater deviation from the district-wide demographic.

4. Ballard, Nathan Hale and Roosevelt High Schools are all located in the north end of Seattle, in regions of the city where most of the residents are white. In the fall of 1999, Ballard High School moved to a new facility. Prior to moving into the new building, Ballard had not been an oversubscribed school before the 1999-2000 school year. Franklin is located in the Beacon Hill area, where the residential racial demographics are predominantly minority. Garfield is located in central Seattle, and draws students from a racially diverse set of neighborhoods, including Capitol Hill, the Central

District, Mount Baker, the Rainier Valley, Seward Park, Madison Park, Queen Anne, Windermere, downtown Seattle, and Alki.

5. Of these five oversubscribed high schools, only Garfield was racially balanced in 1999-2000 under the plan in effect for the 1999-2000 school year. Garfield has historically been out of balance, with a high concentration of minority students. However, due the popularity of the school and the operation of the integration tie-breaker, Garfield came into racial balance in 1999.

6. In three of the other four oversubscribed schools—Nathan Hale, Ballard, and Roosevelt—there were more than 51% white students enrolled in 1999-2000. At Franklin, there were more than 69% students of color enrolled in 1999-2000. Accordingly, students of color who selected Nathan Hale, Ballard or Roosevelt were assigned, regardless of distance from those schools, while white students who selected Franklin were also assigned regardless of distance. Based on current enrollments, and using the revised 15% band rather than the 10% band used in the 1999-2000 school year, Roosevelt would be considered integration neutral for next year's (2001-02) assignments, but the other three high schools would remain out of balance.

7. For the 2000-01 school year, the application of the integration tie-breaker resulted in assignment of 89 more white students who chose Franklin than would have been enrolled there in the absence of the integration tie-breaker. At Roosevelt, the integration tie-breaker resulted in the enrollment of 82 more minority students than would have

been enrolled there in the absence of the integration tie-breaker. 107 more minority students who chose Ballard were enrolled as a result of the integration tie-breaker. At Nathan Hale, 27 more minority students were enrolled as a result of the integration tie-breaker.

8. A part of my responsibility at the Seattle School District is to stay informed of the housing and demographic patterns in the Seattle area. Seattle has had and continues to have racially concentrated neighborhoods. These racial concentrations of the Seattle neighborhoods are reflected in Exhibit A, a chart map that I created, which shows the effect of the integration tie-breaker by indicating the location of the ten high schools, the racial make-up of the neighborhoods of students assigned to the oversubscribed high schools because of the integration tie-breaker, and the schools to which they were assigned.

9. As a result of the operation of the integration tie-breaker for 2000-01, the entering 9th grade class at each of the oversubscribed out of balance schools is at least 10 percent closer to the district's overall demographic profile than it would have been otherwise. The following table depicts the effect of the integration tiebreaker on the entering freshman class at each school:

Appendix D

School	9th Grade Class % Minority **With** Integration Tie-breaker	9th Grade Class % Minority **Without** Integration Tie-breaker
Franklin	59.5	79.2
Hale	40.6	30.5
Ballard	54.2	33.0
Roosevelt	55.3	41.1

10. Roughly half of the approximately 300 high school students whose assignments were determined by the integration tie-breaker moved from racially concentrated residential neighborhoods to schools in other areas of the city, where the racial make-up of the residential neighborhoods is different from where they live. For the most part, these were minority students, residing in South Seattle, the Central Area, and Rainier Valley, who were assigned to Roosevelt, Ballard, and Hale. Under a neighborhood schools policy, or an assignment policy otherwise driven by proximity, these students would not have had the opportunity to attend these in-demand north end schools.

11. After the application of the various tiebreakers, 80.3% of entering 9th graders were assigned to their first choice school. The total number of 9th grade students assigned to a school other than their first choice is largely the result of the popularity of five of the ten high schools, and not the integration tiebreaker; i.e., if the integration tie-breaker had not been in effect, the percentage of 9th graders receiving their first choice of schools would have increased only slightly, to 80.4%.

Appendix D

12. Overall, the assignment policy resulted in 82.4% of students receiving their first choice school. Most of the remaining students received their second or third choice school. For all grade levels, the assignment plan resulted in 17.6% of students not receiving their first choice school. If the integration tiebreaker had not been used, 16.9% of the students still would not have received their first choice school.

13. Due to the racial composition of Seattle's residential neighborhoods, the goal established by the school board of attaining a level of diversity within the schools that approximates the district's overall demographics cannot be accomplished within the reasonably foreseeable future unless some students are assigned to schools other than their nearest or next nearest schools.

14. The Seattle School District provides transportation for elementary students who select schools within a cluster of schools in the area defined by the student's residence. For secondary students, the District provides transportation for all students who live more than two miles from their assigned school.

Appendix D

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

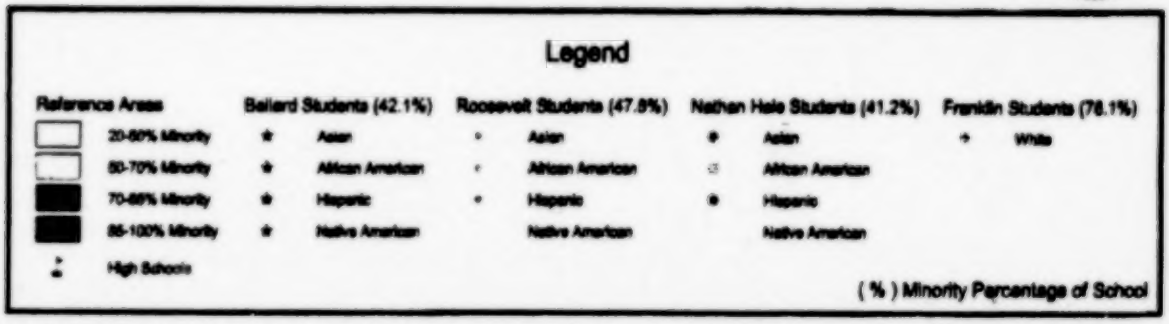
Executed at SEATTLE, Washington, this 21 day of December, 2000.

s/ Morgan Lewis
MORGAN LEWIS

Appendix D

Integration Tiebreaker Analysis

High School 2000-2001



The table contains a variety of information regarding the use of the integration tiebreaker by different ethnicities. For comparitive purposes the minority percentage for the individual reference areas where added, which came from the October 1999 Enrollment Extract. The bottom of the table shows the totals for three different groups of students. Orange represents those students who live in a high minority percentage reference area and were assigned to a low minority percentage high school. Yellow is the group of students who live in low minority percentage areas and were assigned to a high minority percentage school. No color represents the students who live in a reference area with a similar minority percentage as the school they were assigned to.

Cluster	Reference Area	A	B	H	I	W	Ref Total	Ref Min %
North	Bagley	3		2	1		6	32.6%
	Broadview	3	7	6	1		18	42.8%
	Greenwood	1	2	1			4	34.8%
	Northgate	4	1	2			7	69.7%
	Olympic Hills	4	3				7	69.7%
	Olympic View	4	3	1			8	48.8%
	Wedgwood	4	5	3	1		13	48.4%
Northeast	Bryant	2	1				3	32.1%
	Laurelhurst	6		1	2		9	20.7%
	John Rogers	4					4	43.3%
	Sandpoint	3	2				5	40.2%
	View Ridge	4		1			5	33.0%
	Wedgwood						0	34.2%
Northwest	Adams	1					1	26.0%
	B. F. Day	2		2	1	1	6	28.4%
	Green Lake	2		2	1		5	31.3%
	J. Blanford Ind.	3	1			1	5	29.9%
	Loyal Heights						0	20.5%
	North Beach	1		2			3	24.5%
	West Woodland				1		1	33.1%
	Whittier						0	28.3%
Ballard	Ballard	1	2				3	22.1%
	John Hay	1	1	1	1		4	28.1%
	Lawton	4	4	2			10	36.8%
	Blaine	4	1	3	1		9	24.2%
Central	T. Marshall	4	2	1			7	69.8%
	Garfield	3	4				7	69.4%
	M.L. King		2				2	68.2%
	Leschi		3				3	67.7%
	McClure		2	1		1	4	36.7%
	Madrona			2			2	78.7%
	T.T. Minor	1	1	1	1		4	78.1%
	Meridian		1	1			2	24.8%
	Stevens	2	1	1			4	40.8%

Cluster	Reference Area	A	B	H	I	W	Ref Total	Ref Min %
South	Beacon Hill	3	1		1		6	61.8%
	Hawthorne	2					2	61.8%
	Dearborn Park	6	2				8	63.2%
	Maple	3					3	68.3%
	John Muir		3	1			4	72.8%
	Whitworth	1	2				3	68.0%
	Kimball	7					7	62.4%
Southeast	Brighton	6	2	1			9	60.4%
	Dunlap	6			1	1	8	61.3%
	Graham Hill	7	5	1			13	66.8%
	Emerson	2	2			4	8	66.8%
	Rainier View	1	1			1	3	66.8%
	Van Asselt	7					7	66.3%
	Wing Luke	2					2	62.4%
WS North	Ahl				1	4	4	21.2%
	Cooper						0	72.2%
	Fairmount Park	1				2	3	69.4%
	High Point	1	2			5	8	76.9%
	Lafayette				1	1	1	25.0%
	Schmitz Park					3	3	29.9%
WS South	Arbor Heights			1			1	27.6%
	Concord	2			1	1	4	61.2%
	Gatewood					6	6	24.0%
	Highland Park	1				1	2	73.7%
	Roxhill					1	1	50.9%
	Sanislo	3	1			1	5	75.4%
920	920	1					1	70.9%
High Minority%		77	37	9	4	0	122	
Low Minority %		0	0	0	0	15	14	
Neutral Minority %		55	33	30	12	19	155	
Total		132	70	39	16	34	291	

Metadata: Enrollment information came from the "online" file, which consist of all students who were assigned during the batch process. This data set includes students with the following criteria: 1) 9th grade 2) No sibling 3) Option 85 4) Integration positive 5) Living outside the "draw boundary" for the school and 6) 1st Choice. The "draw boundary" for a school is determined by the distance of the last non-integration positive student assigned to the school. The boundaries for the four impacted high schools were Ballard (1.58mi), Franklin (3.48mi), Roosevelt (1.86mi), and Nathan Hale (2.32mi).

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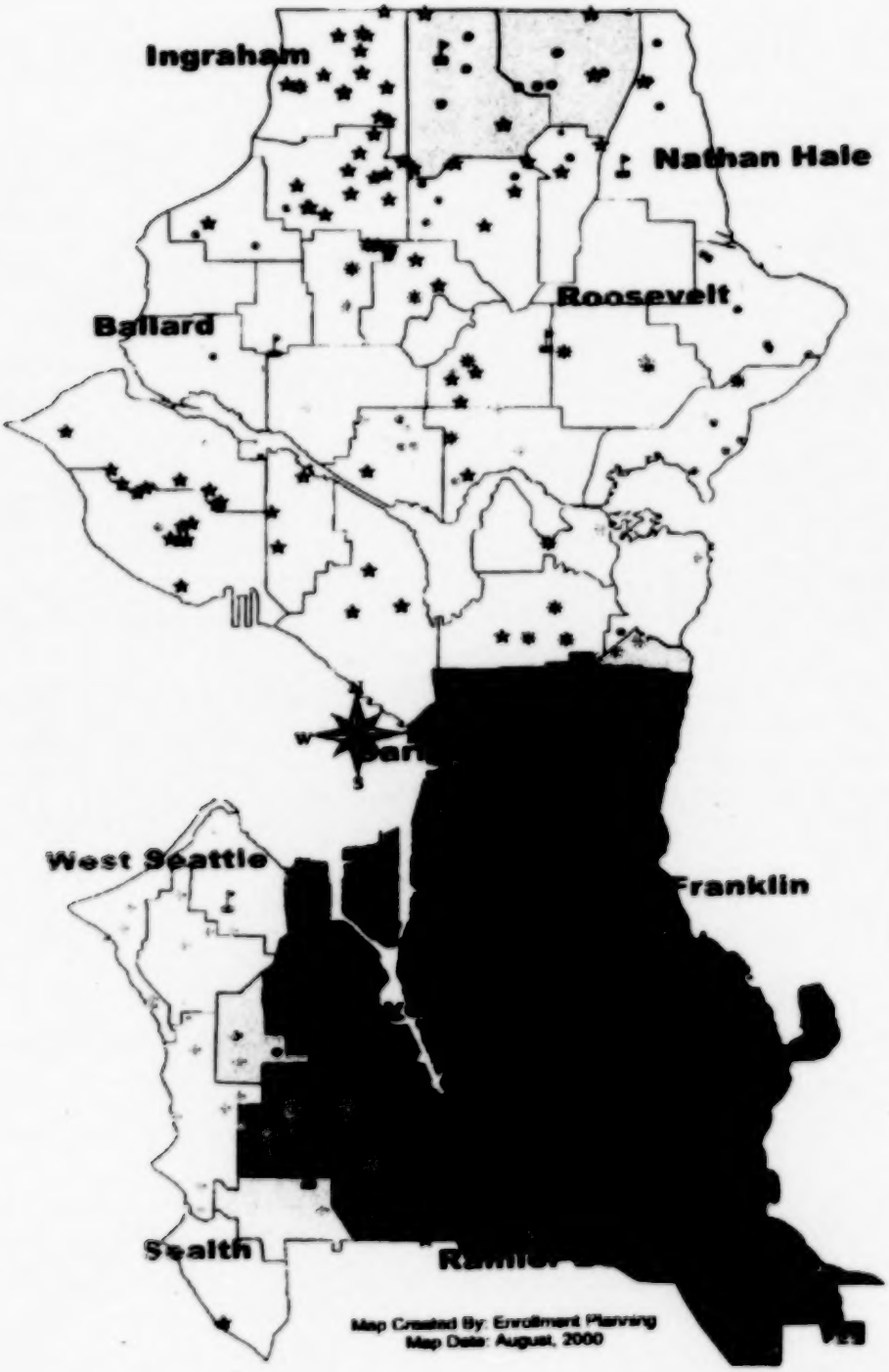
Appendix D



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APPENDIX E — DECLARATION OF REBECCA TAYLOR IN SUPPORT OF DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT DATED DECEMBER 19, 2000

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NO. C00-1205R

NOTE ON MOTION CALENDAR:
FRIDAY, FEBRUARY 2, 2001

PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1, a political subdivision of the State of Washington; JOSEPH OLCHEFSKE, in his official capacity as superintendent; BARBARA SCHAAD-LAMPHERE, in her official capacity as President of the Board of Directors of Seattle Public Schools; and DONALD NIELSON, in his official capacity as Vice President of the Board of Directors of Seattle Public Schools; STEVEN BROWN; JAN KUMASAKA; MICHAEL PRESTON; BARBARA PETERSON; and NANCY WALDMAN, in their official capacities as members of the Board of Directors,

Defendants.

Appendix E

DECLARATION OF REBECCA TAYLOR IN SUPPORT OF DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

I, Rebecca Taylor, declare:

1. I am the Secretary for the Board of the Seattle School District. My office is located at 815-4th Ave.N, Seattle, WA 98109. I am competent to testify in this action and make this declaration on personal knowledge of the records and files of the Seattle School District.

2. Attached hereto as Exhibit 1 is a true and correct copy of the Comprehensive Plan Student Assignment approved by the Seattle School District Board in 1996, including the authorized School Board Action approving Resolution 1996-17, together with Resolution 1996-17, and accompanying exhibits A through C.

3. Attached hereto as Exhibit 2 is a true and correct copy of the authorized School Board Action dated November 4, 1998, approving Resolution 1998-10, together with Resolution 1998-10, and accompanying attachment A.

4. Attached hereto as Exhibit 3 is a true and correct copy of the authorized School Board minutes dated November 17, 1999, approving the adoption of the Board Statement Reaffirming Diversity Rationale.

5. Attached hereto as Exhibit 4 is a true and correct copy of the authorized School Board Action approved by the Seattle School District Board on November 15, 2000.

Appendix E

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Executed at SEATTLE, Washington, this 19th day of December, 2000.

s/ Rebecca Taylor
REBECCA TAYLOR

APPENDIX F — COMPREHENSIVE PLAN STUDENT ASSIGNMENT; RESOLUTION 1996-17 DATED DECEMBER 29, 2000 (INCLUDING EXHIBITS A-C)*

COMPREHENSIVE PLAN

STUDENT ASSIGNMENT

Submitted to the Seattle School Board

November 6, 1996

* This document was located in the district court record as Exhibit 1 to the Taylor Declaration filed 12/29/00.

Appendix F

COMPREHENSIVE PLAN —

STUDENT ASSIGNMENT

Table of Contents

1. School Board action, including recommendation and discussion

2. Resolution 1996-17

3. 1997-98 Amendments to the Current "Controlled Choice" Student Assignment Plan for Elementary Schools (Exhibit A to the Resolution)

4. Controlling Principles of the New 1998-99 Assignment Plan (Exhibit B to the Resolution)

5. Findings and Conclusions Adopted by the Seattle School Board in Support of Resolution 1996-17 (Exhibit C to the Resolution)

Appendix F

SCHOOL BOARD ACTION

Appendix F

SCHOOL BOARD ACTION

Introduction: 11/6/96
Action: 11/20/96

DATE: November 6, 1996

TO: School Board

FROM: John Stanford

RE: 1997-98 Amendments to the current Student Assignment Plan, Controlling Principles for new Student Assignment Plan to commence in 1998-99, and 1997-2000 Comprehensive Plan

RECOMMENDATION

I recommend that the following motion be passed:

I move approval of Resolution 1996-17 adopting the 1997-98 amendments to Revised Student Action Plan, adopting the Controlling Principles for a new Student Assignment Plan to commence with the school year 1998-99 and directing the Superintendent to proceed with the development of a new plan in accordance with these Controlling Principles for presentation to the Board of Directors no later than June 1997, and endorsing the continued development of the remaining components of the 1997-2000 Comprehensive Plan and directing the Superintendent

to ensure those other components are implemented concurrently with the implementation of the new Student Assignment Plan.

DISCUSSION

In a November 16, 1995 report to the State Board of Education entitled "Student Assignment Process", the Seattle School District indicated that the current student assignment plan (the "Controlled Choice" plan) has not achieved all the intended goals. The current plan has not:

- adequately contributed to an increase in academic performance of all students
- promoted parental involvement
- provided equal access to high quality programs
- significantly reduced racial isolation
- contributed to equity in movement of students
- provided comprehensive programs in small schools
- increased market share

Amending the current plan for the school year 1997-98, adopting guiding principles and directing the staff to develop a new student assignment plan based on those principles, and endorsing the continued development and phasing in of the Comprehensive Plan will increase student achievement

by promoting quality schools close to home, ensuring equity of access to programs, and providing staffing flexibility at schools.

Staff recommends that the Comprehensive Plan continue to be phased in to:

- implement the Education Plan
- allow time for families and communities to provide input and adjust to changes
- target resources in a time of declining funds
- negotiate supportive contracts
- permit periodic reviews of the facilities master plan
- permit an orderly implementation of the new Student Assignment Plan

The staff recommends that the new Student Assignment Plan be phased in over a three-year period. In the first year, the existing plan would be amended to incorporate the following elements:

- The current elementary controlled choice plan will be retained.
- Racial balance guidelines will be replaced by desegregation goals.

Appendix F

- Students will be able to choose any elementary school within the District (Open Choice) but limitations will be placed on transportation based on the transportation service standards.

- Desegregation positive assignments will be the highest tie breaker.

- The staff will designate set-aside seats as necessary to achieve overall Comprehensive Plan and desegregation goals.

- Alternative schools and All-City options will exist.

- Selected program relocations will occur.

The staff recommends that the new Student Assignment Plan commence with the 1998-99 school year and be phased in over two years. The principle elements of the new plan would include the following:

- The new nine cluster choice pattern will be implemented.

- Desegregation goals will continue.

- Open choice will continue but limitations will be placed on transportation based on the transportation service standards.

- Desegregation will be the highest tie breaker.

Appendix F

- The staff may assign students to set-aside seats where necessary to achieve overall Comprehensive Plan and desegregation goals.

- Alternative schools and All-City options will exist.

- Selected program relocations and reconfigurations may occur.

- Begin two years of grandfathering (transportation).

Appendix F

SEATTLE SCHOOL DISTRICT NO. 1

RESOLUTION 1996-17

Appendix F

SEATTLE SCHOOL DISTRICT NO. 1
RESOLUTION 1996-17

WHEREAS, the Board of Directors of the Seattle School District is committed to phasing in a 1997-2000 Comprehensive Plan to consist of: an Education Plan, Program Placement Process, 1997-98 amendments to the Student Assignment Plan, new Student Assignment Plan to commence in 1998-99, Facilities Master Plan, Human Resources Plan, and Weighted Student Formula; and

WHEREAS, the Board of Directors is committed to providing equal and high quality educational opportunities to all students in a multi-ethnic, multi-racial, and multi-cultural learning environment; and

WHEREAS, the Board of Directors has concluded that all of the components of the Comprehensive Plan are critical to advancing the Board's goals; and

WHEREAS, the Board of Directors is committed to the concept of promoting student academic achievement by providing quality schools close to home; and

WHEREAS, the Board of Directors is committed to providing adequate time for students, their families and Seattle school resources to adjust to changes in the Student Assignment Plan;

Appendix F

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS:

1. Adopts the 1997-98 amendments to the Revised Student Assignment Plan (the current "Controlled Choice" plan), which are attached hereto as Exhibit A;

2. Adopts the Controlling Principles for a new Student Assignment Plan to commence with the school year 1998-99, which are attached hereto as Exhibit B, and directs the Superintendent to proceed with the development of a detailed new Student Assignment Plan in accordance with these Controlling Principles for presentation to the Board of Directors no later than June 1997; and

3. Endorses the continued development of the remaining components of the 1997-2000 Comprehensive Plan and directs the Superintendent to ensure those remaining components are implemented concurrently with the implementation of the new Student Assignment Plan, and consistent with available resources.

This resolution is in accordance with and based upon the detailed Findings and Conclusions, which are attached hereto as Exhibit C and are incorporated herein by reference.

Appendix F

DATED this 20th day of November, 1996.

s/ Linda Harris
Linda Harris, President

s/ Alan Sugiyama
Alan Sugiyama, Vice President

s/ Scott Barnhart
Scott Barnhart

s/ Barbara Schaad-Lamphere
Barbara Schaad-Lamphere

s/ Ellen Roe
Ellen Roe

s/ Michael Preston
Michael Preston

s/ Don Nielsen
Don Nielsen

Attest: s/ John H. Stanford
John H. Stanford, Secretary
Board of Directors
Seattle School District No. 1

Appendix F

1997-98 AMENDMENTS TO THE CURRENT "CONTROLLED CHOICE" STUDENT ASSIGNMENT PLAN FOR ELEMENTARY SCHOOLS (EXHIBIT A TO THE RESOLUTION)

Appendix F

1997-98 Amendments to the Current
"Controlled Choice" Student Assignment Plan for
Elementary Schools

Background

There were seven component criteria that determined how the new student assignment plan would be developed; choice, predictability, equity, diversity, minimal disruption, multicultural learning environment, and transportation costs. The challenge was to meld the individual components into a cohesive plan/implementation process so that students could be closer to home and cross town forced bussing based on race would be reduced or eliminated.

Transition Year (1997-98)

To minimize disruption and maintain predictability, it is recommended that the new student assignment plan be phased in. The first phase of the plan will be accomplished by amending the existing plan for the year 1997-98. The new plan will commence in 1998-99 and will be implemented over a two year period.

Amendments To Existing Plan

During the transition year (1997-98), three major amendments to the current controlled choice plan are proposed. These amendments focus on adopting desegregation goals, open choice, and new tiebreakers. The specific amendments to the existing controlled choice plan

are set forth next, along with the pros and cons of each proposed alternative.

Amendment No. 1

Desegregation Goals

K-12 students shall be assigned to school in a manner that supports desegregation as a goal. This would eliminate the use of current racial balance guidelines which include mandatory assignments across town in order to support desegregation. Goals will be set based on 20% points above or below the overall minority enrollment percentage.

Pros:

- There will be fewer mandatory assignments based on race.

- More students can be enrolled in schools located closer to their homes.

- More families will receive their first choice.

- There will be greater equity in student movement between majority and minority populations.

- There will be greater equity in student movement between north and south populations.

Cons:

- Some schools may become more racially isolated.

- Some schools (particularly South, South-East schools) may become oversubscribed.

- Schools located North of the ship canal may become under enrolled if those schools currently receive students from the South and South-East segments of the city.

Amendment No. 2

Open Choice

Students will have the opportunity to choose any school in the District. Transportation will be limited to eligible sites based on the existing transportation standards.

Pros:

- Choice is increased.

- Transportation costs remain relatively stable.

- Provides a transition to the new plan.

Cons:

- People with discretionary time/resources benefit most.

- Popular schools will have longer wait lists.

Appendix F

• Neighborhood children who arrive late at oversubscribed schools may be wait listed because of previous assignments made to open choice students at that school.

Amendment No. 3 a.

Tiebreakers For Half-Day Kindergarten
(*Wales Amendment*)

The tiebreakers for half-day kindergarten shall be:

1. neighborhood
2. desegregation
2. siblings
3. distance
4. lottery

Pros:
• The tiebreaker order supports voluntary racial transfers.

• The tiebreaker order improves predictability in placement for neighborhood students.

• Neighborhood students will not be squeezed out by voluntary racial transfers.

Cons:
• Community input suggests that parents favor "siblings" as the first tiebreaker.

• The tiebreakers are complex.

Appendix F

Amendment No. 3 b.

Tiebreakers For First Through Fifth Grade and All-Day Kindergarten

The tiebreakers for first grade through fifth grade and all-day kindergarten shall be:

1. desegregation positive
2. neighborhood
3. siblings
4. distance
5. lottery

Pros:

• The new tiebreakers support desegregation by encouraging voluntary racial transfers.

• Neighborhood choice is improved.

Cons:

• Community input suggests that parents favor "siblings" as the first tiebreaker.

• The tiebreakers are complex.

• Neighborhood children from over subscribed schools may be displaced in favor of voluntary racial transfers.

Appendix F

Amendment No. 3 c.

Tiebreakers for Alternative Schools and Special Programs

The tiebreakers for alternative schools and special programs shall be:

1. desegregation
2. siblings
3. special program preference
4. lottery

Pros:

• The tiebreaker order supports voluntary racial transfers.

• These tiebreakers are the least complex of the tiebreakers.

Cons:

• In oversubscribed schools a younger siblings may be denied entry in favor of a voluntary racial transfer.

Appendix F

CONTROLLING PRINCIPLES OF THE NEW 1998-99 ASSIGNMENT PLAN (EXHIBIT B TO THE RESOLUTION)

Appendix F

Student Assignment Team Presentation

Controlling Principles of the New 1998-99 Assignment Plan

I. Voluntary Desegregation

II. Open Choice

III. Choice Areas

IV. Alternative Schools

V. Tiebreakers

VI. Mandatory Assignments

VII. Remedies for Racially Isolated Schools

VIII. Transportation - "Grandfather Clause"

IX. Comprehensive Plan

Appendix F

Principle I — Voluntary Desegregation

In 1998-99, the District will implement a K-12 "voluntary" desegregation plan. Strategies and features of the plan that will promote voluntary desegregation include:

1. Setting goals based on 20% points above or below the overall minority enrollment percentage;

2. Giving assignment preference to applicants who help to improve racial balance (voluntary racial transfers);

3. Providing viable desegregation positive school options with strategically located "designated/magnet" schools;

4. Providing "open choice" to facilitate more options outside of the neighborhood school;

5. "Setting aside" seats to accommodate voluntary racial transfers.

Pro:

- There will be fewer mandatory assignments based on race.
- More students can be enrolled in schools located closer to their homes.
- More families will receive their first choice.
- There will be greater equity in student movement among majority and minority populations.

Con:

- Certain schools may become more racially isolated.
- Certain schools (particularly in the South, South-East schools) may become over-enrolled.
- Schools located north of the ship canal may become under-enrolled if the schools are currently receiving a large number of students from south of the ship canal.

Principle II — Open Choice

Families may choose *any* neighborhood or alternative school in the district.* However, transportation will only be provided to schools:

1. within the cluster;
2. to designated desegregation positive schools outside of their cluster;
3. to selected alternative schools;
4. to selected regional or all city programs including: Distar, Spectrum, alternative schools.

* The open choice feature will start during the 1997-98 school year.

Pro:

- Choice is increased.
- Transportation costs remain relatively stable.
- Provides a transition to the new plan.

Con:

- People with discretionary time/resources benefit most.
- Popular schools will have longer wait lists.
- Local children from oversubscribed schools may he displaced by late arrivals.

Principle — III. Choice Areas

The district will be divided into nine geographically contiguous clusters for elementary school choice. Transportation will be provided to "cluster schools" and other schools or programs based upon the transportation standards.

Pro:

- Each cluster consists of *contiguous* school reference areas in the same part of town.
- Students would be closer to home if they so choose.

Con:

- Some of the clusters in the neighborhoods are not racially balanced.
- Some clusters have perceived poor choices.

Principle IV. — Alternative School Choice

Every choice cluster will have access (with transportation provided) to at least one alternative school. For the purposes of student assignment, an alternative school is a school that does not have a reference area.

Appendix F

Pro:

- Everyone has an alternative school choice.
- Distance is not a factor- provides equal access.

Con:

- All alternative schools are not the same. Parents perceive this as inequitable.

Principle V. — Oversubscription Rules

In the event that more students apply than there are spaces available, assignments will be made in accordance with the following priorities.

Tiebreakers:

A. Neighborhood Schools — (full day K-5)

1. Desegregation
2. Neighborhood
3. Siblings (outside of the neighborhood)
4. Distance
5. Lottery

B. Neighborhood Schools (half-day K - Wales Amendment)

1. Neighborhood
2. Desegregation
3. Siblings (outside of the neighborhood)
4. Distance
5. Lottery

Appendix F

C. Alternative Schools and Special Programs

1. Desegregation
2. Special Program Preference
3. Siblings
4. Lottery

Principle VI. — Mandatory Assignments

A. A student will receive a mandatory assignment when space is not available in any of the schools chosen by the family.

1. Mandatory assignments will be made to the next closest school to the student's "choice" address within the cluster.

2. As a general rule, no student will be mandatorily assigned outside of his or her cluster.

B. The District reserves the discretion to address program needs under the Comprehensive Plan in any school. This may result in enrollment caps and/or limited mandatory assignments.

Pro:

- Predictability is high within the clusters.
- It supports the neighborhood concept.

Con:

- Racial isolation at some schools could increase.

Appendix F

Principle VII. — Remedies for Racially Isolated Schools

No student will be required to attend a racially isolated school.

1. For a minority student, a school is racially isolated if the total minority enrollment exceeds 79%.

2. For a majority student, a school is racially isolated if the total minority enrollment is less than 39%.

Pro:

• This feature promotes desegregation.

Con:

• This feature may contribute to student movement out of the area even though the school is close to the student's home and it has a quality program.

Principle VIII. Transportation — "Grandfather Clause"

If the school is not a cluster school, a designated school or select alternative school under the new assignment plan, transportation will be provided for up to two years beginning the school year 1998-99.

A student who is assigned to a controlled choice cluster school under the current plan may continue in that school to the highest grade.

Pro:

• Supports continuity and stability.

Con:

- Increases transportation costs.

Principle IX. — Comprehensive Plan

The Student Assignment Plan will be implemented concurrently with the other elements of the Comprehensive Plan. The District reserves the discretion to implement the Student Assignment Plan consistent with all the other elements of the Comprehensive Plan, and consistent with available resources. This discretion could extend to temporary enrollment caps or limited mandatory assignments.

Pro:

- The Student Assignment Plan is supported by and supports other plans to increase academic achievement.

Con:

- A plan with multiple elements is complex to coordinate and implement.

Appendix F

FINDINGS AND CONCLUSIONS ADOPTED BY THE SEATTLE SCHOOL BOARD IN SUPPORT OF RESOLUTION 1996-17 (EXHIBIT C TO THE RESOLUTION)

Appendix F

FINDINGS AND CONCLUSIONS ADOPTED BY THE SEATTLE SCHOOL BOARD IN SUPPORT OF RESOLUTION 1996-17 1997-2000 COMPREHENSIVE PLAN AND NEW SCHOOL STUDENT ASSIGNMENT PLAN

I. GOALS AND OBJECTIVES

1. The Seattle Public School District is committed to providing equal and high quality educational opportunities to all students, in a multi-racial, multi-cultural, and multi-ethnic learning environment.

2. The Seattle Public School District is committed to pursuing these fundamental goals through its Comprehensive Educational Plan, which includes an Education Plan, Program Placement Process, Facilities Plan, Human Resources Plan, Weighted Student Formula, the 1997-98 Amendments to the Revised Student Assignment Plan, and a new Student Assignment Plan to commence in the 1998-99 school year.

3. The Seattle Public School District is committed to developing an elementary school student assignment plan that will further the following objectives:

- Maintain and enhance educational opportunities and achievement for all elementary school students;

- Promote, maintain, and enhance racial balance/ diversity;

- Increase parent/student opportunity to be assigned to their first choice school;
- Increase predictability of school assignments;
- Increase equity in the burdens and benefits of the school assignment plan;
- Minimize disruption through transitional phase-in of new plan;
- Maximize cost effectiveness;
- Increase parental involvement in elementary school programs and schools;
- Reduce long distance bussing; and
- Minimize disruption to those parents/students who are satisfied with their current school assignment.

II. HISTORY AND IMPACTS OF VOLUNTARY DESEGREGATION IN SEATTLE SCHOOLS

1. Over the course of the last 25 years, the Seattle School District has voluntarily undertaken a variety of programs in an effort to desegregate its schools.

2. Since 1963 Seattle has had voluntary racial transfer programs.

Appendix F

3. In 1971, the School Board adopted a middle school mandatory assignment desegregation plan, although implementation was delayed for almost two years by a lawsuit filed by a citizen group which opposed mandatory bussing.

4. In the mid-1970's, the District developed a "magnet" school desegregation program which was largely a voluntary program.

5. In 1977, the School Board adopted a mandatory student assignment plan (the "Seattle Plan") for purposes of achieving the District's racial balancing goals.

6. The Seattle Plan was immediately challenged by the passage of Initiative 350 which prohibited mandatory bussing throughout the state of Washington.

7. The Seattle School District challenged the constitutionality of Initiative 350 in a lawsuit that was ultimately resolved on appeal to the U.S. Supreme Court. In *Washington v. Seattle School District*, 458 U.S. 457, 73 L.Ed.2d 896, 913 n.21, 102 S.Ct. 3187 (1982), the Initiative was found unconstitutional.

8. In 1988, in response to concerns that the burden of mandatory bussing fell disproportionately on minority students, was contributing to "white flight" from the public schools, and that bussing for racial balance left some schools under-enrolled and others over-enrolled, the School Board adopted a "controlled choice" student assignment plan. The controlled choice plan has generally been followed from 1988 to the present.

Appendix F

9. Since the 1970's, the number of students enrolled in the Seattle Public Schools has declined from approximately 60,000 to 46,000 as of October 1, 1995. Enrollment has, however, increased in four out of the last five years.

10. Based on October 1995 demographic data, white students comprised 41.3% of the student population and minorities 58.7%.

11. Over 9,800 students, or 22.3% of total enrollment, have non-English speaking backgrounds. Bilingual services are provided to 14.2% of the enrolled students.

III. CURRENT "CONTROLLED CHOICE" PLAN

1. The revised controlled choice plan in effect in 1995-1996 emphasizes parental and student choice of schools within a racially integrated and educationally enhanced system of school attendance zones and assignment clusters. The clusters were configured in a manner that would enable the District to maintain racial balance in each cluster school. Because of housing patterns, it was impossible to fashion clusters in a geographically contiguous manner. For example, North Seattle neighborhoods were matched with South and Central neighborhoods. West Seattle schools were matched with schools in parts of Beacon Hill and Rainier Beach.

2. The controlled choice plan has not guaranteed that everyone will receive their first choice school, but does assure students stability of assignment. Students are allowed to choose from a cluster of schools, some of which are close to the student's home, and some of which are in racially and

culturally different neighborhoods. The plan incorporates desegregation guidelines, encourages voluntary racial transfers, and, where necessary to comply with desegregation guidelines, requires mandatory assignments.

3. Current state and district desegregation guidelines require that a school not exceed the District's minority percentage (58.7%) by more than 25% (83.7%) or fall below the District's minority percentage by 25% (33.7%).

4. In 1989, the Wales Amendment exempted neighborhood half-day kindergarten children from the desegregation guidelines.

5. Under the controlled choice plan, about 7,400 of the district's 46,225 students are subject to mandatory assignments, and mandatory bussing. More minority children are transported north than majority children are transported south.

6. During the 1994-1995 school year, about 1,900 elementary school students rode the bus between the north and south ends of Seattle. Some of these students did so by choice. The burden of this cross town, desegregation positive bussing falls disproportionately on minority students. Only 12% of the elementary students who are subject to cross town busing are white. Bilingual students comprise 34% of the group, minority students comprise 52%, based on the numbers of elementary students who are bused north to south or south to north.

Appendix F

7. From 1991 through 1995, the percentage of students receiving their first school choice ranged between 67% and 71%.

8. The percentage of students receiving mandatory assignments remained at about 16%.

9. Approximately 80% of white students choose a school in their geographic area. These percentages are higher for elementary school age children.

10. Approximately 67% of minority students choose a school in their geographic area. These percentages are higher for elementary school age children.

11. In 1994, a staff team was charged with devising a plan that would simplify the student assignment plan, reduce costs, increase community satisfaction and improve academic achievement.

12. A new concept was presented which continued the controlled choice concept, created contiguous "choice patterns", increased choice, eliminated mandatory assignments based on desegregation guidelines, and maintained incentives for voluntary desegregation. No plan was implemented.

13. In January 1995, former Superintendent William Kendrick recommended to the School Board that the student assignment plan be refined in order to "improve student and parent satisfaction, enhance academic achievement efforts, improve equity, maintain schools free of racial imbalance, and maintain eligibility for federal and state desegregation related general and capital funding."

Appendix F

14. In a November 16, 1995 report to the State Board of Education entitled "Student Assignment Process", the Seattle School District reported that the controlled choice plan had not achieved all of the District's intended goals. The plan had failed to "adequately" increase in academic performance, promote parental involvement, provide equal access to high quality programs, or significantly reduce racial isolation. Furthermore, the plan had disproportionately burdened minority students.

IV. ALTERNATIVE OPTIONS CONSIDERED AND PUBLIC COMMENT

1. In 1994, in response to a growing public demand to change the student assignment plan, the School District had begun studying and developing alternatives to the controlled choice student assignment plan keeping in mind three factors: choice, diversity, and predictability.

2. It was determined that any changes in the student assignment plan should be guided by five principles identified by Superintendent John Stanford in November 1995: 1) enable children to attend school close to home if they choose to do so; 2) provide equal access to quality programs; 3) increase the percentage of families who receive their first choice; 4) maximize diversity within each school; and 5) minimize mandatory assignments based on race.

3. Four basic options were developed: 1) the current "controlled choice" plan; 2) "regional choice", a plan that would permit students to choose any school in the region in which they live; 3) "open choice", a plan that would enable students

to choose any school within the Seattle Public Schools; and 4) "neighborhood choice", a plan that would allow students to choose their neighborhood school, alternative schools, or schools designated for voluntary racial transfers.

4. The School District recognized that not every one of the five guiding principles could be addressed by each of the options developed, and that the demographics and racial composition of the district would make it difficult to maximize diversity in the schools while at the same time eliminating mandatory assignments and allowing families to choose neighborhood or regional schools.

5. Concurrently, the District conducted focus groups to discuss whether the district should replace the desegregation guidelines with desegregation goals. The effect of replacing desegregation guidelines with goals would be to reduce mandatory racial assignments, allow increased first choice and neighborhood choice, and potentially result in increased racial concentration in some schools.

6. Over a four month period, from June through September 1996, a series of community forums and focus group sessions were conducted to obtain input from parents, students, interested community and staff organizations and business leaders, and to assist in determining which principles should receive priority consideration.

7. These community forums and focus groups reflected the fact that the community placed a high priority on allowing more children to attend school close to home, increasing the percentage of families who receive their first choice, minimizing mandatory racial assignments, and promoting equity.

8. During the summer of 1996, the staff studied the impacts of the preferred options order to assess the ability of each option to maximize choice, diversity and predictability. Each option was evaluated on the basis of: 1) racial impacts; 2) educational impacts; 3) affordability; 4) program placement and availability; and 5) resource allocation.

9. A hybrid "choice cluster" plan was developed which incorporated elements of all of the options under consideration.

10. On October 2, 1996, Superintendent John Stanford presented a progress report to the School Board on staff recommendations to replace desegregation guidelines with desegregation goals, eliminate mandatory desegregation positive assignments, create incentives for voluntary desegregation positive transfers, and phase in a "choice cluster" plan over a three year period.

V. NEW STUDENT ASSIGNMENT PLAN

1. Seattle School Board Resolution 1996-17 (hereafter the "Resolution") provides for the adoption of a three year, phased-in revision to the current controlled choice plan for elementary school student assignments.

2. Under the Resolution, the current controlled choice plan will be amended for the transition year 1997-98. The amendments will replace racial balance guidelines with desegregation goals, permit students to choose any elementary school in the district with transportation limited to selected sites, and make desegregation positive assignments the tie breakers with the highest priority. The

staff will retain discretion to assign students to set aside seats to achieve overall Comprehensive Plan and desegregation goals.

3. Under the Resolution, a new Student Assignment Plan will be adopted to commence in the year 1998-99. This new Student Assignment Plan will include the creation of contiguous clusters, desegregation goals, open choice with limits on transportation, desegregation as the highest priority tie breaker, and two years of grandfathering. Staff discretion to achieve overall Comprehensive Plan and desegregation goals will be retained.

4. Specifically, the new Student Plan to commence in the year 1998-99 will contain the following features:

- Nine geographically contiguous "choice clusters" will be created;
- Each cluster will include access to an alternative school;
- A child can attend any elementary school within the District, subject to limits on transportation, desegregation goals, and school capacity;
- No child will be mandatorily assigned outside of the choice cluster;
- No child will be forced to attend a racially isolated school;

Appendix F

- The order of precedence for oversubscription will be: 1) desegregation; 2) neighborhood; 3) siblings outside the neighborhood; 4) distance; 5) lottery.

- Desegregation will be the highest priority tiebreaker for oversubscribed schools.

- The plan adopts a desegregation goal which is the District-wide minority percentage plus or minus 20%. This goal will relate to the determination of desegregation positive assignments, permit voluntary racial transfers and exchange programs, and provide for alternative schools.

- Transportation will be provided, based on state regulations, within the clusters, to multi-cluster options, to all-city options, and for desegregation-positive transfers.

- The student assignment plan will be coordinated with academic, facilities, teacher and staff, and financial plans so as to anticipate and mitigate any adverse educational impacts related to increased racial isolation.

- Under the weighted-student formula to be adopted in the financial resource plan, funding will follow students, resulting in additional funds flowing to schools which also have large minority student populations.

- The plan will provide for two years of grandfathering starting with the 1998-1999 school year.

Appendix F

5. While the adoption of the Resolution will likely result in increased racial isolation in some schools, the Resolution also seeks to ensure that the new Student Assignment Plan is implemented concurrently with the 1997-2000 Comprehensive Plan. This is intended, in part, to anticipate and mitigate any adverse educational impacts of racial isolation by assuring that additional funding and resources can be allocated based on student need.

6. The 1997-2000 Comprehensive Plan includes: an Education Plan, Program Placement Process, 1997-98 amendments to the Student Assignment Plan, new Student Assignment Plan to commence in 1998-99, Facilities Master Plan, Human Resources Plan, and Weighted Student Formula.

7. The Comprehensive Plan is intended to increase student achievement by promoting quality schools close to home, ensuring equity of access to programs, providing staffing flexibility at schools, and mitigating the adverse impacts of racial isolation by assuring that additional funding and resources are allocated based on student need.

APPENDIX G — SCHOOL BOARD ACTION (11/4/98) (INCLUDING ATTACHMENT A — BASIC FRAMEWORK)*

SCHOOL BOARD ACTION

Date:	October 21, 1998	Introduction:	10/21/98
To:	School Board	Action:	11/4/98
From:	Joseph Olchefske, Acting Superintendent		
Re:	1999-2000 Secondary Student Assignment Plans		

RECOMMENDATION

I recommend that the following motion be passed:

I move approval of Resolution 1998-10 adopting the basic framework for the 1999-2000 Secondary Student Assignment Plans and directing the Acting Superintendent to implement the Plan in accordance with the basic framework.

DISCUSSION

In a November 1995 report to the State Board of Education, the Seattle School District indicated that its previous student assignment plan (the "Controlled Choice Plan") had not achieved all its intended goals. Specifically, the previous plan did not: adequately contribute to an increase in academic performance of all students; contribute to parental involvement; provide equal access to high quality programs; significantly reduce racial isolation; contribute to

* This document was located in the district court record as Exhibit 2 to the Taylor Declaration filed 12/29/00.

Appendix G

equity in movement of students; provide comprehensive programs in small schools; or increase market share.

In November 1996, the School Board took several steps to implement a new Student Assignment Plan designed to increase student achievement by promoting parental choice and involvement, quality schools close to home, and equity of access to programs. For the transition year 1997-98, the Board adopted amendments to the existing Controlled Choice Plan including the replacement of racial balance guidelines with integration goals and open choice for all schools within the District with transportation limits. In November 1997, the Board adopted the basic framework for a new Elementary Student Assignment Plan for implementation in September 1998. Key elements of the new elementary plan included a universal assignment rule based on open choice within the District, transportation within the region and preference within the cluster; nine geographically contiguous elementary clusters; tiebreakers based on siblings, cluster, integration positive impact, distance, and lottery. At that time, it was anticipated that similar changes to the Secondary Student Assignment Plans would be prepared for adoption in the fall of 1998.

In accordance with the Board's direction, the Acting Superintendent recommends the adoption of new Secondary Student Assignment Plans beginning with the 1999-2000 school year. The principal elements of the proposed new plan which are similar to those in the Elementary Plan include:

- addressing the competing goals of maximizing academic achievement, maximizing racial integration,

maximizing student enrollment, and minimizing transportation costs.

- dividing the District into 5 middle school regions containing middle schools in each region.

- creating a district-wide high school region.

- a universal assignment rule based on: open choice to any school in the District; transportation provided within region; and region area assignment preference.

- tiebreakers based on sibling, region, integration positive, distance, and lottery.

- transportation for middle school will be provided for in-region choices, and for designated out-of-region choices, with K-5+ schools assigned to multiple clusters for transportation purposes, and with a two-year "grandfathered" transportation commitment for current middle school students who maintain their school assignment and their service address. High school transportation will continue to be provided district-wide.

As was the case for the new Elementary Student Assignment Plans, the new Secondary Student Assignment Plan is being implemented as part of a comprehensive Plan including an Educational Plan, new SEA contract, Weighted Student Formula and Facilities Master Plan to ensure equitable educational opportunities to all students regardless of location or racial or ethnic diversity of the school.

Appendix G

ATTACHMENTS

Resolution 1998-10

SEATTLE SCHOOL DISTRICT NO. 1

RESOLUTION 1998-10

WHEREAS, the Board of Directors of the Seattle School District is committed to providing equal and high quality educational opportunities to all students regardless of the location or racial and ethnic enrollment of the school; and

WHEREAS, the Board of Directors is committed to providing high quality educational opportunities to all students in a multi-ethnic, multi-racial, and multi-cultural learning environment, because it believes that such opportunities are beneficial to all students; and

WHEREAS, the Board of Directors is committed to the concept of promoting student academic achievement by providing the opportunity for students to attend quality schools closer to home; and

WHEREAS, the Board of Directors is committed to implementing a new Student Assignment Plan in conjunction with the other components of the District's Comprehensive Plan including: the Education Plan, the Program Placement process, a Facilities Master Plan, a Human Resources Plan including the new SEA agreement, and a Weighted Student Formula; and

WHEREAS, the Board of Directors began the transition to this new plan in 1996 by adopting significant amendments

to the current Controlled Choice Plan, adopting a new Elementary Student Assignment Plan and directing the staff to develop and implement new Secondary Student Assignment Plans for 1999-2000; and

WHEREAS, the Board of Directors adopted a detailed set of Findings and Conclusions in conjunction with last year's action, and those are incorporated herein by reference.

NOW THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS:

1. Adopts the basic framework of the 1999-2000 Secondary Student Assignment Plans (the "Plans"), which is set forth in Attachment A; and

2. Directs the Acting Superintendent to implement the Plans in accordance with this basic framework.

Appendix G

Adopted this 4th day November, 1998.

s/ Barbara Schaad-Lamphere
Barbara Schaad-Lamphere,
President

s/ Michael Preston
Michael Preston, Member

s/ Don Nielsen
Don Nielsen, Vice President

s/ Ellen Roe
Ellen Roe, Member

s/ Scott Barnhart
Scott Barnhart, Member

s/ Nancy Waldman
Nancy Waldman, Member

s/ Jan Kumasaka
Jan Kumasaka, Member

ATTEST: s/ Joseph Olchefske
Joseph Olchefske, Acting Secretary
Board of Directors
Seattle School District No. 1
King County, Washington

Appendix G

BASIC FRAMEWORK FOR 1999-2000 SECONDARY STUDENT ASSIGNMENT PLANS

1. GUIDING PRINCIPLES

2. REGIONAL CONFIGURATION

3. UNIVERSAL ASSIGNMENT RULE

4. TIEBREAKERS

5. VOLUNTARY RACIAL INTEGRATION

6. PROGRAM PLACEMENT

7. TRANSPORTATION

8. COMPREHENSIVE PLAN

ATTACHMENT A

Appendix G

1. GUIDING PRINCIPLES

A. Academic Achievement

- The Plan needs to be based on universal principles that are grounded in the District's Education Plan.

- These universal principles should be consistently applied to all schools.

- The Plan must be easy to understand and communicate.

- The Plan should increase the opportunity for children to choose schools closer to their homes.

B. Racial Integration

- Every student should have the opportunity to attend a racially and ethnically diverse school.

- The District provides the opportunity for students to attend a racially and ethnically diverse school because it believes that providing diverse learning environments is educationally beneficial for all students.

- The Plan should utilize voluntary, not mandatory, mechanisms to promote diversity.

Appendix G

C. Student Enrollment

- The Plan should increase the use of market-based mechanisms in the assignment process.

- Individual school enrollments should be driven primarily by the capacity of each school building, although the District should manage the utilization of its facilities in such a way as to provide an equitable educational program for all schools throughout the District.

- The Plan should assign each student according to his or her highest possible preference. No student should be penalized for seeking a "first choice" assignment to a school other than that students' neighborhood school. Each student's priority for assignment will be determined by a ranking for each student at each school, based upon the universal tiebreakers.

The Superintendent is directed to implement this change to the plans as soon as possible, but no later than the assignment period for September 2000. If full implementation is not possible by the assignment period for September 1999, alternative strategies (i.e. hold harmless provisions) which increase the number of highest possible preference choices should be used as an interim measure.

Appendix G

D. Transportation

- The plan should provide sufficient transportation so that all students will have a reasonable and meaningful number of schools from which to choose.

- The Plan should not increase the District's basic operating costs.

- The Plan must maintain the District's promise of a two-year "grandfather clause" regarding current middle school assignments.

E. Annual Review

- The Plan shall be reviewed annually to determine that it operates in a fair and equitable manner.

2. REGIONAL CONFIGURATION

Middle Schools

- The District will be geographically divided into 5 middle school regions.

- Each middle school region consists of contiguously grouped elementary reference areas.

The regions for the secondary portions of K-5+ schools (African American Academy. AE#2, AS#I, Blaine, Madrona, Orca, Pathfinder. Summit and

TOPS) will be the same as the cluster designations for their elementary grades.

The secondary alternative schools (SASS South and Indian Heritage) will be all city draws.

- NOMS/Coho will have the current 3 cluster draw for grades K-5 and all city draw for grades 6-8.

High Schools

- The District will be one contiguous high school region.

3. UNIVERSAL ASSIGNMENT RULE

The assignment of secondary students for the 1999-2000 school year will be predicated on the following:

- Universal school assignment rule:

  - Open choice to any school in District.

  - Transportation provided outside the walk boundary.

  - Resident region assignment preference.

Appendix G.

4. TIEBREAKERS

- If more students choose a school than there are seats available in that school, then tiebreakers are used to determine which students receive assignment to that school.

- The following tiebreakers and order will determine the priority under which students are assigned:

Grades 6-8

1. Siblings
2. Region
3. Integration Positive
4. Special Program Preference (for entering 6th graders, applied through 2001-2002 unless renewed)
5. Distance
6. Lottery

Grades 9-12

1. Siblings
2. Region
3. Integration Positive
4. Distance
5. Lottery

- Students not receiving an assignment to their first choice school are placed on a waitlist for later assignment.

- The priority order of the waitlist for on-time applicants is determined by the tiebreakers. The waitlist for late applicants is determined by time of sign-up.

Appendix G

5. VOLUNTARY RACIAL INTEGRATION

A. District Commitments

- The District's commitment is that no student should be required to attend a racially concentrated school.

- The District is also committed to providing students with the opportunity to choose voluntarily a non-region school to promote integration.

B. Voluntary Integration Mechanisms for Middle School

- *In-region choice.* Students in all five regions have the opportunity to choose any school in their region with transportation provided consistent with transportation standards. Four regions (Northwest, Northeast, Southwest and Central) offer in-region integrated choice for both white and minority students.

- *Out-of-region choice.* The resident student populations in the Northwest, Northeast and Southeast regions are not as racially or ethnically diverse as the resident population in the Southwest and Central regions. As a result, white students in the Northwest and Northeast regions and minority students in the Southeast region will have the additional opportunity to

choose out-of-region schools with transportation provided consistent with transportation standards. These out-of-region schools have been chosen based on racial composition, capacity, location, and other school characteristics to provide these students with a meaningful opportunity to choose a school that is racially and ethnically diverse or that they will help make more racially and ethnically diverse.

- *Integration positive tiebreaker.* "Integration positive" is the number three tiebreaker. This tiebreaker will apply whenever a minority student is applying to a school where the percentage of white students in the receiving school is more than 10% above the district white average, or a white student is applying to a school where the percentage of minority students in the receiving school is more than 10% above the district minority average. (The current white percentage is 41%, and the current minority percentage is 59%). This tiebreaker applies district-wide, although transportation is only provided to in-region and designated out-of-region schools.

Appendix G

Proposed [illegible] of Region Integration Positive Choic [illegible] Middle School

• Northwest	Mercer, South Shore
• Northeast	Mercer, South Shore
• Central	none
• Southeast	McClure, Hamilton, Meany
• West Seattle	none

6. PROGRAM PLACEMENT

- We will ensure that each region has the placement of an equitable share of the following District programs.

  - Bilingual
  - Special Education
  - Spectrum

  The goal of these placements is to place programs closer to where students live, and to ensure equity of access to these programs throughout the District.

Appendix G

7. TRANSPORTATION

A. Basic Principles of the Transportation Plan

Transportation eligibility will be based on the Transportation Service Standards.

The current walk zones will continue to be in effect.

Middle Schools

- In general, students will receive transportation only for in-region choices, and for designated out-of-region integration positive choices for which they are integration positive and are outside the safe-walk zones.

- All students in the southeast region, regardless of race, will be provided transportation to the designated integration positive out-of-region choices.

- Transportation will be provided out of region to the following programs:
  - APP at Washington
  - Certain Special Education programs
  - Spectrum at Washington from the Southwest region for 3 years.

- Except as noted above, Metro passes and/or script will be provided to eligible students attending out-of-region schools.

Appendix G

High Schools

- Yellow bus or Metro passes and/or script will be provided to students meeting transportation service standards.

B. All-City and Multi-Zone Transportation

- For K-5+ schools (African American Academy, AE#2, AS#I, Blaine, Madrona, Orca, Pathfinder, Summit, TOPS) transportation will be provided within their assigned regions

- For secondary alternative schools (SASS South, Indian Heritage, Marshall, Nova) metro passes and/or script will be provided.

C. Grandfather Commitment for Middle School

- Transportation will continue to be provided through the grandfaher period to those students who are currently eligible for transportation and who maintain their:

  - 1998-99 school assignment
  - 1998-99 service address.

- This "grandfathered" transportation will be provided only for the 1999-2000 and 2000-2001 schoo! years.

Appendix G

D. Equi [illegible]

- The Plan will be monitored to ensure the provision of sufficient transportation so that all students will have a reasonable and meaningful number of schools from which to choose.

Appendix G

8. COMPREHENSIVE PLAN

- The 1999-2000 Secondary Student Assignment Plans will be implemented in conjunction with the District's Education Plan; the Program Placement process; the Human Resources Plan, including the new SEA contract; the Weighted Student Formula; and the Facilities Master Plan.

- Implementing the Secondary Student Assignment Plans in conjunction with the rest of the District's Comprehensive Plan will ensure the provision of equitable educational opportunities to all students regardless of the location or racial and ethnic diversity of the school.

APPENDIX H — FINDINGS AND CONCLUSIONS OF SCHOOL BOARD (SCHOOL BOARD MINUTES) DATED NOVEMBER 17, 1999 AND SCHOOL BOARD ACTION DATED NOVEMBER 15, 2000*

Meeting: Seattle School District No. 1
Board of Directors

Date/Time: November 17, 1999
11:30 a.m. (Executive Session)
1:00 p.m. (Reception)
2:00 p.m. (Regular Legislative Session)

Location: Frances Penrose Owen Auditorium
A&S Center
815 Fourth Ave. N.
Seattle, Washington

Directors: Barbara Schaad-Lamphere, President
Don Nielsen, Vice President
Scott Barnhart
Jan Kumasaka
Michael Preston
Ellen Roe
Nancy Waldman

Staff: Joseph Olchefske, Superintendent

I. Call to Order:

At 11:30 a.m., President Schaad-Lamphere convened an Executive Session of the Board with the Superintendent to discuss his annual performance evaluation. At 1:00 p.m., there was a reception in honor

* This document was located in the district court record as Exhibits 3 and 4 to the Taylor Declaration filed 12/29/00.

of Directors Barnhart and Roe who are both stepping down from the Board after eight and 24 years respectively. The regular Legislative Session (public portion of the meeting) was called to order at 2:00 p.m. The meeting then continued with the general announcement to the audience, the Pledge of Allegiance, a moment of thought from the Superintendent, and roll call.

At this time, the Board President presented Directors Barnhart and Roe with mementos to serve as reminders of their years on the School Board. Each Director then took a moment to personally thank them for their friendship and their service to the children of Seattle Public Schools.

II. Superintendent's Awards and Presentations:

- Urban Enterprise Center: Corporate Jobs Challenge "Recognition Award." Herman McKinney, Vice President/Executive Director of Urban Affairs, provided background about the Corporate Jobs Challenge (CJC) initiative. The CJC was issued in 1995 and challenged Seattle businesses to hire from the ranks of qualified minority applicants residing in the target communities (Central Area, Rainier Valley and Duwamish Corridor). The challenge called for companies to hire 1,000 residents from these neighborhoods. As of September 30, 1999, 3,417 individuals from the target areas have been hired off welfare. This year alone, 1,511 individuals were placed in jobs with an average wage of $17,000 per year. Over 1,800 companies participate in this effort, and recently, recognition awards were presented to six employers for their outstanding performance in hiring

qualified minority applicants. Seattle School District was one of those honored for hiring residents from the CJC target communities and providing the highest average salary overall. President Schaad-Lamphere accepted this award on behalf of the District.

III. Superintendent's Reports:

- *Recruitment/Hiring Efforts.* This report was postponed until the December Board meeting.

- *Parent/Teacher Conferences in Relation to Standards.* The Board was presented with information about recent District activities aimed at providing a better understanding to principals, staff, parents, and the community about the standards. These activities included six community meetings that focused primarily on the role of parents and the community in relation to the standards, and four workshops designed to articulate to principals their leadership role in working with standards in their buildings. The principal workshops have taken the form of videos and scripts, with the first video having to do with parent conferences. At this time, the Board was treated to a preview of this video. Also, they were provided with copies of the parent guidebooks relative to standards.

IV. Citizen and Community Concerns—Action Items:

Nothing to report under this agenda item.

Appendix H

V. Minutes Approval:

The minutes of the regular legislative session of November 17, 1999, were unanimously approved by the Board (7 yes).

VI. Business Action Items:

A. Consent Agenda. Nothing to report under this agenda item.

B. Items Removed from Consent Agenda. Nothing to report under this agenda item.

C. Non-Routine Action Items:

The Board President went "off agenda" at this time to recommend a motion that would provide for a 4% increase in the Superintendent's annual salary. She also commented that Mr. Olchefske's annual appraisal as it relates to the District priorities will be released this day (November 17th); however, overall the Board is very pleased with the Superintendent's performance over the past year and gave him "fairly glowing" remarks. The motion to increase the Superintendent's annual salary was unanimously approved by the Board (7 yes).

1. *2000 Legislative Session—Action Agenda.* The motion to approve the legislative agenda was unanimously approved by the Board (7 yes).

Appendix H

2. *Highly Capable Program Services.* The motion directing the Superintendent to review Highly Capable program services and provide potential modifications to the Board for adoption and implementation in the 2001-2002 School Year was unanimously approved by the Board (7 yes).

3. *Annual Review of the Elementary and Secondary Student Assignment Plans.* The motion was read recommending that the Seattle School Board make no changes to the elementary and secondary student assignment plans for the 2001-2002 school year, with the following exceptions:

   - Reaffirm and restate the diversity rationale for using the integration positive tiebreaker.

   - Change definition of an integration positive school from +/–10% to +/–20% of the Districtwide minority/majority percentage.

   - Implement integration positive tiebreaker only at entering grade levels.

   This motion was not approved by the Board. Discussion follows:

   Dir. Kumasaka: Commented that she is struggling with how an integrated school system is possible in light of Initiative 200 and other decisions that are occurring at the federal level. Stated that southeast schools are

becoming more segregated with enrollment at some of these schools at 75%-85% students of color and 50%-75% of the students eligible for the free and reduced lunch program. Further stated that diversity is an important educational goal and that there need to be as many choices and options as possible available to these students...not less. Widening the band from 10% to 20% lessens their choices. Also opposed to the proposal to implement the integration positive tiebreaker at entering grade levels only.

Dir. Preston: Stated that he has always felt that integration positive should be the number one tiebreaker . . . that he has difficulty in supporting a change to the integration positive tiebreaker because it is already narrowly tailored. Further stated that he agrees with Director Kumasaka's assessment of what is occurring at some of the schools because of actions already taken by the Board . . . that the Board may be creating a situation where it claims reaffirmation of our diversity rationale while creating policy that "flies in the face" of it.

Dir. Barnhart: Stated that he was going to favor widening the band because he felt that this action would not limit choice at the extremes of our racial concentrations and would provide stability. Felt that it is incumbent upon the next Board to look at the weighted

student formula and whether or not the student assignment system should be more flexible...also to look at the issue of socioeconomic status.

Dir. Preston: Responded that he is opposed to this proposal for some of the same reasons that Director Barnhart supports it. That Director Barnhart is correct that widening the band will make the assignment plan easier to implement for the staff, but not necessarily better for the students. Reiterated that if we are a student-focused District, then the plan should have escape mechanisms for students . . . particularly in the overcrowded southend where it is racially isolated with much poverty. Stated that even with the weighted student formula, this proposal will create difficulties in the southend because widening the band will make almost every school race neutral and when you put the other tiebreakers in place, children in the neighborhood will get into the schools and those outside of the neighborhood won't. Since portables will not be used at the northend schools (where there is capacity) to accommodate students from the southend, this doesn't appear to be a student-focused change and will result in further racial isolation.

Appendix H

Dir. Barnhart: Responded that the Board is walking a "fine line" between trying to create a system that works for everyone and the potential legal impacts of I-200 and Brown vs. Board of Education. That the Board and staff have created a system that functions well without being hamstrung by lawsuits, while trying to meet goals such as integration and diversity.

Dir. Preston: Responded that in years past, the School Board challenged a State-passed initiative at the Supreme Court level regarding the right to determine what the student assignment plan would look like...and the Court ruled in favor of the District. Therefore, there are two separate laws; one that says separate educational facilities are inherently unequal and the new State law I-200. With regard to I-200, felt that the District's assignment plan is already narrowly tailored because integration positive is not the number one tiebreaker and the plan allows for a range of racial participation in each school so if the plan were challenged in court, the narrow tailoring issue would not hold up. Stated that if the District is going to be sued, it should be sued for doing the right thing. Reiterated, however, that he does not believe that we will be sued because the assignment plan has already been narrowly tailored.

Appendix H

Dir. Roe: Stated that she would not support changing the integration positive tiebreaker from +/–10% because what we have in place at this time seems to be working well.

Dir. Nielsen: Reiterated that the integration of society should not fall on the backs of the public schools, but that public schools have a significant role to play in this issue. That increasing the quality of schools in racially concentrated neighborhoods affects real estate values . . . the most important influence on integration. The degree to which schools improve in racially concentrated areas is the degree to which neighborhoods become increasingly attractive places to live, which impacts the integration of the schools. Further stated that the bottom line to integrating society most effectively is to effectively educate each child because nothing will promote integration faster than providing children with the opportunity to earn a very good living which then allows them the ability to purchase real estate anywhere they wish to live. Stated that where we are in our present system is fine; however, believes that integration is the wrong tiebreaker . . . that society is seeing an increasing number of racially mixed marriages and children and knowing what race a person is has become an increasingly complex judgment. Felt that a better tiebreaker would be poverty. Urged

the Superintendent and staff to replace the integration positive tiebreaker with a socioeconomic tiebreaker and have that presentation available to the Board before the fall of next year when this issue is addressed again.

Pres. Schaad-Lamphere: Hearing no further comments, stated that she would entertain a motion to delete item #2 from the original motion...the item which would change the definition of an integration positive school by widening the band.

An amendment was proposed by Director Nielsen and seconded by Director Kumasaka to remove item #2 from the original motion. The Board President called for comments or questions related to the proposed amendment.

Dir. Preston: Stated that this amendment would still leave item #3 in the motion which refers to implementing the integration positive tiebreaker at entering grade levels only. Stated that he found that no less objectionable than item #2.

Dir. Kumasaka: Stated that she, also, could not support this particular change.

Appendix H

Pres. Schaad-Lamphere: Suggested that the original motion be discussed and voted on piecemeal . . . one item at a time.

The Board agreed to this approach.

Pres. Schaad-Lamphere: Called for a vote on removing item #2. Clarified that a vote of yes would constitute a vote to remove this item (language) from the original motion, and to keep the integration positive tiebreaker as it currently is (+/–10% of the Districtwide minority/majority percentage).

This proposed amendment was approved by the Board (4 yes-Kumasaka, Nielsen, Roe, Waldman/3 no-Barnhart, Preston, Schaad-Lamphere) which means that item #2 will be deleted from the original motion.

An amendment was proposed by Director Kumasaka and seconded by Director Roe to remove item #3 from the original motion. The Board President called for any additional discussion of this proposed amendment.

Pres. Schaad-Lamphere: Called for a vote on removing item #3. Clarified that a vote of yes would constitute a vote to remove this item (language) from the original motion, and to keep the integration positive tiebreaker at all grade levels.

Appendix H

This proposed amendment was approved by the Board (4 yes-Barnhart, Kumasaka, Preston, Roe/ 3 no-Nielsen, Schaad-Lamphere, Waldman) which means that item #3 will be deleted from the original motion.

An amendment was proposed by Director Nielsen and seconded by Director Roe to change the secondary student assignment plan so that "closest school" is adopted as a tiebreaker to be utilized after integration positive and before distance. The tiebreaker order would then read: 1) sibling; 2) region; 3) integration positive; 4) closest school; 5) distance; and, 6) lottery.

Dir. Nielsen: Stated that he believed that this amendment would help to rectify a flaw that currently exists in the secondary student assignment plan which created the problem that occurred at Eckstein this past year . . . that some households have a high priority of acceptance to two closest schools while others will have no chance at all of being accepted to their one closest school.

Dir. Preston: Complimented Director Nielsen for a very well-thought-out presentation. Felt that this could not be decided at this meeting because public comment was necessary before the Board took any action . . . that the potential for unintended consequences not yet known was too great.

Appendix H

Dir. Barnhart: Complimented Director Nielsen, as well. Stated, however, that he could not support this amendment at this time because the impacts were not known and further study needed to occur before the Board took this action, and that this could be revisited in the future.

Dir. Kumasaka: Stated that she felt uncomfortable supporting this because there had been no community input about this change . . . that public sentiment at the community meetings was overwhelmingly in favor of leaving the plan as it is at this time and a change of this magnitude had to be taken back to the public for their input.

Dir. Roe: Questioned what was going to happen in the northeast region when the same problems resurfaced at the beginning of next school year?

Dir. Preston: Asked the Superintendent to respond to that question.

Supt. Olchfefske: Stated that he believed this to be a school quality issue or a school quality perception among parents . . . that it was necessary to improve the program at Hamilton M.S. Further stated that he would soon be announcing a package of changes at Hamilton that he felt would improve the attractiveness of the school to parents.

Appendix H

Dir. Roe: Stated that improvements to Hamilton would not show immediate change in the enrollment patterns, and something needed to be done now before next fall.

Dir. Waldman: Agreed with Director Roe that enrollment patterns would not change overnight and while this is certainly not a permanent fix, it was something . . . and nothing better had been proposed.

Dir. Nielsen: Stated that this proposal would also give the Queen Anne/Magnolia students access to Ballard H.S. which they do not have at this time.

Pres. Schaad-Lamphere: Stated that there are children in West Seattle that choose and are assigned to heavily subscribed high schools in the northeast and central regions so she felt that the logic was flawed when it came to the high school piece.

Hearing no further discussion, the Board President called for a vote on the proposed amendment to the secondary student assignment plan that would make "closest school" a tiebreaker to be utilized after integration positive and before distance.

Appendix H

This proposed amendment was not approved by the Board (3 yes-Nielsen, Roe, Waldman/ 4 no-Barnhart, Kumasaka, Preston, Schaad-Lamphere).

An amendment was proposed by Director Nielsen and seconded by Director Barnhart to change the secondary student assignment plan so that the fourth tiebreaker for all schools would be "prior SPS attendance." Prior SPS attendance was defined as attendance in Seattle Public Schools for the preceding year.

Dir. Nielsen: Stated that currently in every grade except grades 6 and 9, this amendment is already in place. However, when our students move from elementary to middle and middle to high school, the system is opened up and no preference given to current SPS children. Believed this practice to be wrong and that the District should take care of existing customers first.

Dir. Preston proposed a "friendly amendment" that "closest school" be deleted from the language of this motion since that discussion had already taken place and the Board did not vote in favor of adding "closest school" as a tiebreaker. Director Nielsen accepted this "friendly amendment" and closest school was stricken from the language.

Appendix H

Dir. Preston: Noted that because we have a market share system run by dollars, it makes more sense to leave the system wide open so that all taxpayers have the same opportunities to use that system whether they choose to or not. Also felt that if this change is approved by the majority of the Board, it should be phased in over a period of time . . . not just dropped on them "all at once and out of the blue."

Dir. Kumasaka: Stated that there are a variety of reasons that parents enroll their children in private schools whether it is long-term or only for a year or so and they should not be penalized for making that choice. Also stated that this amendment seemed very undemocratic and that all taxpayers should have equal access to public education since their tax dollars contribute to it.

Dir. Waldman: Commented that all of the taxpayers of Seattle are our customers whether they choose to use the services or not. Therefore, the challenge for the Board and Superintendent is to make our services so attractive that taxpayers choose to use them.

Pres. Schaad-Lamphere: Stated that she is a fervent supporter of public schools. However, a number of her friends and family choose private schools for their children for a time

and the reasons vary greatly from family to family. Believed that the District should welcome private school students into our system whenever they choose to come.

Hearing no further discussion, the Board President called for a vote on the proposed amendment to the secondary student assignment plan which was further amended by striking "closest school" from the language but would make "prior SPS attendance" the fourth tiebreaker.

This proposed amendment was not approved by the Board (2 yes-Nielsen, Roe/5 no-Barnhart, Kumasaka, Preston, Schaad-Lamphere, Waldman).

An amendment was then proposed by Director Waldman and seconded by Director Nielsen to change the secondary student assignment plan by moving the easternmost boundary of the northwest region to include the Greenwood reference area, effective the beginning of School Year 2001.

Dir. Waldman: Stated that this area is within walking distance of Whitman, is on the other side of Aurora, and seems like a logical place to draw the line. Also, it will help to alleviate some of the enrollment pressure on Eckstein.

Appendix H

J. Vacchiery: Stated that some of the impacts of moving the Greenwood reference area into the northwest region would be:

1. Increase the number of students in the northwest region and reduce the number of students in the northeast region (talking about approximately 145 students, grades 6-8).

2. Potential of moving the problem in the northeast to the northwest since students currently living in the far north and far south portions of the northwest region could be displaced by the Greenwood students through the distance tiebreaker.

3. Potential for "grandfathering" yellow bus transportation for students attending Eckstein and Hamilton because if these students are moved out of their region, they lose their yellow bus transportation.

Dir. Barnhart: Stated that this amendment may make sense, but it needs more study before taking any action because of the potential impacts to other neighborhoods.

Dir. Nielsen: Questioned Director Waldman as to whether or not the principal or PTSA President at Greenwood had been contacted about this proposal?

Dir. Waldman: Responded that she had tried to contact both of these individuals prior to this meeting but was unsuccessful.

Directors Nielsen, Kumasaka and Preston also felt that this action could not be taken without a public process and without further study of the impacts by staff.

Hearing no further discussion, the Board President called for a vote on the proposed amendment to the secondary student assignment plan that would change the easternmost boundary of the northwest region to include the Greenwood reference area, effective the beginning of School Year 2001.

This proposed amendment was not approved by the Board (2 yes-Roe, Waldman/5 no-Barnhart, Kumasaka, Nielsen, Preston, Schaad-Lamphere).

At this time, President Schaad-Lamphere revisited the original motion, as amended. It was necessary to make minor changes to the language because of the non-approval of much of the original language (i.e., changing plural forms within sentence structure to singular) and these changes were Board-approved by "friendly amendment." Also, Director Preston asked that the attachment to the original motion entitled *Board Statement Reaffirming Diversity Rationale* be included, in its entirety, as a part

of these minutes. The original amended motion, and the accompanying attachment now read:

Recommendation

I recommend adoption of the following motion:

I move that, based on its annual review of the student assignment plans including staff reports and community input, the Seattle School Board make no changes to the elementary or secondary student assignment plans for the 2000-2001 school year, and that it:

Reaffirm and restate the diversity rationale for using the integration positive tiebreaker (as set forth in the attached statement).

Attachment

Board Statement Reaffirming Diversity Rationale

The Seattle School District is fortunate to have the pluralism brought by the African American, American Indian, Asian American, Hispanic, and White communities and by the multi-ethnic groups within each. The school system's diversity reflects the increasing pluralism of the U.S. society and emphasizes the broader need for international awareness and cooperation. Diversity in the classroom increases the

likelihood that students will discuss racial or ethnic issues and be more likely to socialize with people of different races. Diversity is thus a valuable resource for teaching students to become citizens in a multi-racial/multi-ethnic world.

Providing students the opportunity to attend schools with diverse student enrollment also has inherent educational value from the standpoint of education's role in a democratic society. The survival and strength of our democratic society depends upon an educated citizenry which shares concerns about the welfare of society, its members, and the democratic principles that govern it. Diversity brings different viewpoints and experiences to classroom discussions and thereby enhances the educational process. It also fosters racial and cultural understanding, which is particularly important in a racially and culturally diverse society such as ours.

The District's commitment to the diversity of its schools and to the ability to voluntarily avoid racially concentrating enrollment patterns also helps ensure that all students have access to those schools, faculties, course offerings, and resources that will enable them to reach their full potential.

Appendix H

Based on the foregoing rationale, the Seattle School District's commitment is that no student should be required to attend a racially concentrated school. The District is also committed to providing students with the opportunity to voluntarily choose to attend a school to promote integration. The District provides these opportunities for students to attend a racially and ethnically diverse school, and to assist in the voluntary integration of a school, because it believes that providing diverse learning environments is educationally beneficial to all students.

The Board approved this amended motion (6 yes/ 1 no-Roe).

Pres. Schaad-Lamphere: Thanked the staff for their hard work. Also, praised her colleagues for the many hours of work and thought that they put into this particular issue. Commented that, although they do not always agree on the best way to accomplish it, every Board member is committed to the highest standards of excellence and equity for all of Seattle's children.

At this time, Director Nielsen proposed two additional motions. The first motion directs the Superintendent to review the composition of the northeast and northwest middle school regions, within the next six months, and present

recommendations regarding the placement of the Bagley and Greenwood Elementary reference areas in the northwest region, and the Northgate reference area in the northeast region. This motion was seconded by Director Barnhart.

The second motion directs the Superintendent to research the possibility and implications of opening a new middle school in North Seattle, and provide findings and recommendations to the Board by Fall of 2000.

While discussing the first proposed motion, it became apparent that both of these motion are tied to one another. However, there are other areas of the city that also must be studied before any changes occur because the impacts may be far-reaching. Also, some of the problems cited in the northeast and northwest regions may not be specific to those areas at some time in the future (i.e., Aki Kurose M.S in the southeast region). Director Nielsen stated that he had no problem with withdrawing both of these motions as long as the Board agreed that the Superintendent and staff should begin looking at these concerns. The Board felt that its wishes and direction to the Superintendent and staff had been clearly articulated; and therefore, formal motions probably were not necessary. With that understanding among the full Board and the Superintendent, Director Nielsen withdrew both of these motions.

Appendix H

VII. New Business:

1. Value Engineering Approvals for Bryant, Coe, Emerson and West Seattle. Introduced for action at the December 8th meeting.

2. Resolution 1999-17, Construction Projects will not Create or Aggravate Racial Imbalance. Introduced for action at the December 8th meeting.

3. 10th Grade WASL Required for High School Graduation. Introduced for action at the December 8th meeting.

   Pres. Schaad-Lamphere: Commented that when graduation requirements are changed, notification usually occurs four years prior to implementation.

   J. Rimmer: Responded that a high school reform agenda is currently being developed that includes an increase in graduation requirements. That there is a plan to bring a full proposal to the Board in the spring but because of the timeliness, it was necessary to bring this piece forward at this time. Noted that in terms of the State, the Board has the authority to make decisions that go beyond State requirements. In addition, there are extenuating circumstances for which procedures would need to be developed in terms of how this will be implemented and

under what circumstances students would be exempt from taking the test (Superintendent would grant on a case-by-case basis).

Pres. Schaad-Lamphere: Stated that high school diplomas are a property right and we may open ourselves up to legal issues if care is not taken when changing graduation requirements.

J. Rimmer: Responded that this motion only mandates that students take the WASL, not pass it in order to graduate.

B. Benzel: Stated that since the District is not requiring that the WASL be passed in order to graduate . . . only taken. That the issue of opportunity is different, and the opportunity will be there for all students within the target group to meet the requirement.

J. Rimmer: Added that make-up tests and other implementation issues will be included as a part of the procedure.

There were additional questions and concerns raised by Board members, and they were unanimous in their desire to see some of these questions adequately answered prior to the vote. It was agreed that this will be an agenda item for further discussion at the Policy and Legislative Committee meeting, on November 23rd.

Appendix H

VIII. Board Reports:

- *Executive Committee.* The minutes are included as a part of the Board materials and reflect discussions that occurred at that meeting.

- *Audit and Finance Committee.* The committee previewed a draft of the program management plan for BTA projects and funds. Also, the five-year financial plan for 2000-2001 will begin as soon as the new School Board members come on-board. Director Kumasaka congratulated the Accounting staff for receiving national recognition, in the form of a beautiful plaque, from the Government Finance Officers Association for Excellence in Financial Recording.

- *Policy and Legislative Committee.* The minutes are included as a part of the Board materials and reflect discussions that occurred at that meeting.

- *Washington D.C. Trip regarding Board Governance Structures.* President Schaad-Lamphere traveled to Washington D.C. to address the D.C. Agenda group, a group working on Board governance issues in that area since the District is attempting to return to an elected School Board structure after being under a control board for the past three years.

- *Seattle Youth Involvement Network.* President Schaad-Lamphere and Director Kumasaka both expressed their pleasure with the Seattle Youth

Involvement Network, how well-run and coordinated the event is, and how impressive the students are who participate.

IX. Information Items:

President Schaad-Lamphere noted a number of important calendar items.

X. Delegations and Petitions:

- Susan Carmel (Gay and lesbian PTSA)
- Chris Jackins (Construction issues, Ballard H.S., Swearing-In of new Board members)
- Robert Stern (Staff's handling of Garfield situation as it relates to the students)
- Omari Tahir (African American Heritage Museum)
- Mary Arris (Sex policy) – not in attendance, did not speak

XI. Work Session:

- *BEX Financial Plan and Budget Update.* John Vacchiery and Geri Lim presented an update that included background information about the BEX Levy; and overview of the financial plan including projected and actual revenues, expenditures, net cash flows, and fund balance results. To hear the

presentation in its entirety, please contact the School Board Office at 298-7040.

XII. Adjournment:

The meeting was adjourned at 5:40 p.m.

Appendix H

For Introduction: 10/4/00
For Action: 11/1/00

SCHOOL BOARD ACTION

Date: October 4, 2000

To: School Board

From: Joseph Olchefske
Superintendent

Re: Annual Review of the Elementary and Secondary Student Assignment Plans

RECOMMENDATION

I recommend the following motion be adopted:

I move that, based on its annual review of the student assignment plans, the Seattle School Board affirm the single high school region for tiebreaker purposes and make no changes to the elementary or secondary student assignment plans for the 2001-2002 school year, except as follows:

1. Change the definition of an integration positive school from +/–10% to +/–~~20~~15% of the District-wide minority/majority percentage;

2. Implement the integration positive tiebreaker only at entering grade levels; and

3. Apply the integration tiebreaker until a school's assignments reach a neutral integration status.~~; and~~

4. ~~Eliminate the Barnhart/Waldman processing amendment at the high school level.~~

Further, the school board hereby directs the superintendent to focus on continuing improvements in quality to all high schools, particularly those five under subscribed high schools and report to the school board on a regular basis.

DISCUSSION

Concerns for the secondary student assignment plan include the imbalance in school choice and school effectiveness, and the uneven geographic distribution of secondary schools. There are no particular issues of concern with regard to the elementary program. Options to address secondary plan concerns include a no-change option and an option that would create geographic regions with a high preference for between one to three high schools. Community input over the past two years heavily favored the no-change option and a strong focus on improving the quality of all schools.

With respect to the integration positive tiebreaker, seventy-five percent of all schools are now outside the District's current defined band of an integrated school (+/–10% from the District-wide average). After review and 2 years of experience, there was not strong evidence that utilizing a +/–10% band provided a materially better educational experience than would a band of +/–20%. Accordingly, in order to fulfill our narrowly tailoring

obligation, staff is recommending a +/–20% band. A wider band would allow for a more targeted focus on schools that have significant racial concentrations. Currently, the tiebreaker applies at all grade levels, but it impacts few students at the non-entry level grades. Applying the integration tiebreaker to entry grades only will give it a more targeted impact. Finally, applying the integration tiebreaker until a school reaches a neutral integration status will further ensure the purpose of the tiebreaker is met.

Staff Person: _____
Mark Green/John Vacchiery

Appendix H

For Board Action: November 15, 2000

The Seattle Public Schools

SCHOOL BOARD ACTION

DATE: November 11, 2000

TO: Board Members

FR: Don Nielsen, Michael Preston

RE: High School Program Assignment Priority

RECOMMENDATION

I recommend the following motion be adopted:

~~That a~~ The superintendent is directed to explore a special assignment process ~~be created~~ for the 2002-03 assignment year -for the 2002-03 assignment year for high school programs which are limited to one site and for which students need to qualify and apply. Students that qualify and are accepted into the program ~~will~~ could be assigned to the school where the program is located.

Immediate adoption is in the best interests of the District.

Appendix H

DISCUSSION

With programs that are limited in location and require qualifications and applications, students who meet the qualifications and are accepted should be assigned to the school where the program is located.

Students that take classes and/or programs in middle school that is in preparation for a special program at high school should have priority to those programs.

The students would be assigned into set-aside seats at the start of the assignment process. Acceptance into such programs will be limited to the total available seats in the program.

TAB 47

APPENDIX I — SUMMARY OF SAT SCORES BY HIGH SCHOOL*

High School	Average SAT Score 2000 (SPS 13907-08)	Difference with Washington Average	Percentage of Seniors Taking SAT
WASHINGTON AVERAGE	1054	N/A	52 (SPS 13917)
Garfield	1208	154	66 (SPS 13981)
Roosevelt	1088	34	77 (SPS 14045)
Hale	1043	-11	48 (SPS 13997)
Ingraham	1022	- 32	27 (SPS 13965)
Ballard	1012	-42	46 (SPS 13917)
Sealth	977	- 77	25 (SPS 14061)
Franklin	967	- 87	N/A
West Seattle	966	- 88	28 (SPS 14077)
Rainier Beach	843	- 211	22 (SPS 14029)
Cleveland	838	- 216	31 (SPS 13933)

* This document was located in the district court record as Attachment 12 to Korrell Declaration filed 2/12/01.

APPENDIX J — LETTERS RECOMMENDING AND APPROVING ANDY MEEKS FOR BALLARD BIOTECH PROGRAM*

Celebrating 125 Years
of Putting Students First

May 2, 2000

McClure Middle School
1915 First Avenue West
Seattle, WA 98119
(206) 378-2700
Fax (206) 378-2701

Seattle Schools

The
Seattle Public Schools

Student Assignment Appeals Board
Administration and Service Center
815 Fourth Avenue N.
Seattle, WA 98109

RE: ANDY K. MEEKS (Student I.D. 5300090). Grade 8

To Whom It May Concern,

Andrew has been a student at McClure Middle School for the past three years. He has been enrolled in the Honors program, which has been very good for him academically because it has allowed him to develop a focus on concentration skills. Teachers in this program use a variety of instructional strategies that include direct teaching, group work, and a variety of hands-on activities.

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* This document was located in the district court record as Attachment 21 to Korrell Declaration filed 2/12/01.

Appendix J

Andy has been diagnosed with ADHD and dyslexia and has been successful in overcoming these handicaps. I believe a program such as the Biotech Career Academy at Ballard High School would help Andy continue to be successful because of the standards set within the program and the hands-on activities built into the program.

Ballard High School is also close to home, which Andy needs because of the support his parents have to give him. Attending a school farther away from his home could result in discontinuity from home and school relationships.

Please feel free to call me at McClure (206/ 378-2700) if you have any questions.

Sincerely,

s/ Phil Brockman
Phil Brockman
Principal

Appendix J

To: Joseph

Fm: John V

Ballard High School
1418 N.W. 65th Street
Seattle, WA 98117-5237
(206) 252-1000
(206) 252-1001 Fax

Seattle Schools

The
Seattle Public Schools

Ballard High School offers a unique educational opportunity to its students through the Biotechnology Career Academy. This is an interdisciplinary program for students with an interest in the biosciences. Students must apply to the program, including the completion of a teacher or counselor recommendation form. Students are then selected for the program based on interest and ability to complete the program.

This type of program is not offered at any other school. Its unique aspects include the following:

Science courses are centered on biotechnology.

- The Biology course teaches students to use the equipment used in professional biotechnology laboratories. This biology has a mathematics prerequisite higher than the standard biology courses, due to its advanced nature.

- The Chemistry course in the academy has a much larger focus on biochemistry and organic chemistry than standard chemistry courses.

Appendix J

- The Genetics course is a science course and a vocational course in that it is geared to teach students the processes and the science used in biotechnology lab work. This class is designed in conjunction with an internship with a local biotechnology company.

The Academy uses a coordinated, interdisciplinary approach. Math, Science and Language arts utilize integrated units, make connections across disciplines and adapt individual curriculum to the interest and needs of the Academy students. For example, *Ethics in Biotechnology* are studied in all three disciplines in a coordinated effort. Student read literature and professional materials in Language Arts while studying the science and the validity of arguments in Biology. Members of the scientific community evaluate a culminating project

The Academy allows for occasional Block Scheduling when needed for Academy activities.

The Academy is managed by an interdisciplinary team of teachers dedicated to the students in the program.

The students are scheduled as a cohort, creating a smaller community of learners within the context of a larger school.

There are other unique aspects of this program including the mentorships and internships offered by local scientists, field trips and seminars by scientists. This is a program that is unique in the Seattle School District.

Andy Meeks has been approved to be admitted into the Biotechnology Career Academy pending placement at Ballard High School.

s/ [illegible]
Biotech Academy

TAB 50

APPENDIX K — SUMMARY OF AP STATISTICS BY HIGH SCHOOL*

HIGH SCHOOL	NUMBER OF STUDENTS TAKING AN AP EXAM	NUMBER OF COURSES OF STUDY WHERE EXAM TAKEN	NUMBER OF EXAMS WHERE STUDENTS SCORED THREE OR BETTER OUT OF TOTAL NUMBER OF EXAMS TAKEN
BALLARD	140	7	98/177
CLEVELAND	2	2	3/3
FRANKLIN	71	7	56/93
INGRAHAM	14	6	11/15
GARFIELD	361	18	563/642
HALE	28	4	11/30
RAINIER BEACH	12	3	1/13
ROOSEVELT	95	9	69/119
SEALTH	7	1	0/7
WEST SEATTLE	7	3	4/7

* This document was located in the district court record as Attachment 22 to Korrell Declaration filed 2/12/01.

APPENDIX L — SCHOOL BOARD ACTION UPON RECOMMENDATION OF JOSEPH OLCHEFSKE TO APPROVE ASSIGNMENT PLAN*

For Introduction: 10/4/00
For Action: 11/1/00

AUTHORIZED
as amended
and with attachment

SCHOOL BOARD ACTION

Date: October 4, 2000

To: School Board

From: Joseph Olchefske
Superintendent

Re: Annual Review of the Elementary and Secondary Student Assignment Plans

RECOMMENDATION

I recommend the following motion be adopted:

I move that, based on its annual review of the student assignment plans, the Seattle School Board affirm the single high school region for tiebreaker purposes and make no changes to the elementary or secondary student assignment plans for the 2001-2002 school year, except as follows:

1. Change the definition of an integration positive school from +/-10% to +/-~~20~~15% of the District-wide minority/majority percentage;

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* This document was located in the district court record as Attachment 26 to Korrell Declaration filed 2/12/01.

2. Implement the integration positive tiebreaker only at entering grade levels; and

3. Apply the integration tiebreaker until a school's assignments reach a neutral integration status.~~; and~~

4. ~~Eliminate the Barnhart/Waldman processing amendment at the high school level~~.

Further, the school board hereby directs the superintendent to focus on continuing improvements in quality to all high schools, particularly those five under subscribed high schools and report to the school board on a regular basis.

DISCUSSION

Concerns for the secondary student assignment plan include the imbalance in school choice and school effectiveness, and the uneven geographic distribution of secondary schools. There are no particular issues of concern with regard to the elementary program. Options to address secondary plan concerns include a no-change option and an option that would create geographic regions with a high preference for between one to three high schools. Community input over the past two years heavily favored the no-change option and a strong focus on improving the quality of all schools.

With respect to the integration positive tiebreaker, seventy-five percent of all schools are now outside the District's current defined band of an integrated school (+/-10% from the District-wide average). After review and

Appendix L

2 years of experience, there was not strong evidence that utilizing a +/-10% band provided a materially better educational experience than would a band of +/-20%. Accordingly, in order to fulfill our narrowly tailoring obligation, staff is recommending a +/-20% band. A wider band would allow for a more targeted focus on schools that have significant racial concentrations. Currently, the tiebreaker applies at all grade levels, but it impacts few students at the non-entry level grades. Applying the integration tiebreaker to entry grades only will give it a more targeted impact. Finally, applying the integration tiebreaker until a school reaches a neutral integration status will further ensure the purpose of the tiebreaker is met.

Staff Person: _____

Mark Green/John Vacchiery

TAB 52

APPENDIX M — COMPARISON OF SEATTLE HIGH SCHOOLS AS MEASURED BY STUDENT SUCCESS AT UW, AND UW RATINGS OF THE SCHOOLS*

High School	Difference between HS GPA and First Quarter UW GPA	UW Rating (2-4, 4 being the highest)
Washington Average	-0.65	3
Hale	-0.55	4
Roosevelt	-0.59	4
Franklin	-0.63	3
Ballard	-0.67	3
Ingraham	-0.68	3
Garfield	-0.70	3
Cleveland	-0.81	2
Rainier Beach	-0.83	2
West Seattle	-0.85	2
Sealth	-0.98	2

* This document was located in the district court record as Attachment 28 to Korrell Declaration filed 2/12/01.

APPENDIX N — PLAINTIFF'S FIRST REQUESTS FOR ADMISSION AND DEFENDANTS' RESPONSES (EXCERPTS)*

REQUEST FOR ADMISSION

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, please admit the following:

REQUEST NO 1: Admit that Andy Meeks, son of Jill Kurfirst, would have been allowed to attend Ballard High School for the 2000-01 school year had his racial status been non-White rather than White.

RESPONSE:

Defendants object to this request as posing an improper, and impossible, hypothetical. Without waiver of the objection, and with the understanding that the response would not necessarily be the same under a "race neutral" scenario, Admit.

REQUEST NO. 2: Admit that Andy Meeks, son of Jill Kurfirst, would have been allowed to attend Nathan Hale High School for the 2000-01 school year had his racial status been non-White rather than White.

RESPONSE:

See Response to Request No. 1.

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* This document was located in the district court record as Attachment 32 to Korrell Declaration filed 2/12/01.

Appendix N

REQUEST NO. 3: Admit that Andy Meeks, son of Jill Kurfirst, would have been allowed to attend Roosevelt High School for the 2000-01 school year had his racial status been non-White rather than White.

RESPONSE:

See Response to Request No. 1.

REQUEST NO. 4: Admit that Winnie Bachwitz's daughter would have been allowed to attend Ballard High School for the 2000-01 school year had her racial status been non-White rather than White.

RESPONSE:

Assuming that this request refers to Lisa Claire Bachwitz, see response to Request No. 1.

REQUEST NO. 5: Admit that Winnie Bachwitz's daughter would have been allowed to attend Roosevelt High School for the 2000-01 school year had her racial status been non-White rather than White.

RESPONSE:

See response to Request No. 4.

Appendix N

REQUEST NO. 6: Admit that Winnie Bachwitz's daughter would have been allowed to attend Nathan Hale High School for the 2000-01 school year had her racial status been non-White rather than White.

RESPONSE:

See response to Request No. 4.

APPENDIX O — DECLARATION OF JILL KURFIRST IN SUPPORT OF PICS' MOTION FOR PARTIAL SUMMARY JUDGMENT ON STATE LAW CLAIMS DATED FEBRUARY 12, 2001*

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

No. C00-1205R

PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation,

Plaintiff,

v.

SEATTLE SCHOOL DISTRICT NO. 1, a political subdivision of the State of Washington, et al.,

Defendant.

DECLARATION OF JILL KURFIRST IN SUPPORT OF PICS' MOTION FOR PARTIAL SUMMARY JUDGMENT ON STATE LAW CLAIMS

I, Jill Kurfirst, declare:

1. I am a member of the plaintiff organization, Parents Involved in Community Schools ("PICS"). I am competent to testify in this matter and make the following declaration based upon personal knowledge.

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* This document was located in the district court record as Attachment 9 to Korrell Declaration filed 2/12/01.

Appendix O

2. I am the mother of Andy Meeks. Andy is presently a freshman at Northwest Yeshiva High School on Mercer Island.

3. In the spring of 2000, Andy applied to attend Ballard High School, hoping to enroll in its Biotechnology Career Academy. While he was accepted into this biotech program, the District's assignment plan denied him placement at Ballard High School on the basis of his race and, instead, assigned him at Ingraham High School (a school that was not among his top three choices). As a result of his failure to be admitted to Ballard, he was not permitted to enroll in the biotech program in the fall of 2000.

4. I appealed the District's decision to deny Andy a spot at Ballard. That appeal was based upon two grounds, one medical, the other educational: Andy has Attention Deficit Hyperactivity Disorder and dyslexia, conditions that Ballard was better suited to handle than Ingraham (because of Ballard's six-period day and proximity to the house, and the biotech program because of its hands-on integrated learning). Also, the District's refusal to allow Andy the chance to enroll in Ballard's biotech program denied him an educational opportunity that no other school in the district could replicate. After the first appeal was rejected by a District employee, I appealed that rejection. A two-person appeals board then rejected my appeal for a second time.

5. Winnie Bachwitz is a PICS member. Like my son, her daughter was accepted into Ballard High School's biotech program but was denied the chance to enroll at that school because of her race. She was assigned to Ingraham, a

school that was not among her top choices. Ms. Bachwitz appealed her daughter's assignment and that appeal was rejected by the District.

6. Integrated Math I is a math course typically taken by ninth graders in the Seattle School District. Students must have passed Integrated Math I as eighth graders, be recommended by their math teacher for promotion into Integrated Math II, have received letters of recommendation from their middle school teachers, and write an essay demonstrating their interest in the program in order to qualify for the Ballard Biotechnology Career Academy. Applications for this program were due in advance of District high school assignments and were reviewed for acceptance into the program by Biotechnology Career Academy staff.

7. I and other parents use a variety of objective criteria to evaluate the quality of District schools. Among those criteria are standardized test scores, the availability of advanced placement courses, the number of students taking advanced placement courses, results of AP tests and SAT tests, the number of students going on to college, the number of college preparatory courses offered, the Seattle Times college preparedness rankings, the University of Washington's rankings of high schools, and disciplinary statistics.

8. PICS members believe that the academic, extracurricular, and other special programs at five of the District's high schools (Ballard, Franklin, Garfield, Hale, and Roosevelt) are better organized, better supported, and more effective than those at the remaining schools. My knowledge

of the disparities among District high schools is based upon review of school guides, tours of the schools, discussions with District employees, discussions with students currently in the high schools and with parents of Seattle high school students, classroom visitations, and other observations.

9. Attending school close to home has many advantages for students and parents alike. Reducing transportation time is the most obvious benefit. If students must travel long distances to school on Metro busses, and transfer busses en route, they lose a significant part of the day at a stage in their development when time is especially scarce (and scarce for their parents too). There are also safety concerns when girls and boys must spend significant amounts of time waiting at bus stops early in the morning and late at night. Living a longer distance from school makes it more difficult for both students and parents to participate in after-school and extra-curricular activities. Assignment to a school far from home also makes it difficult for students to form friendships with classmates whom they meet at school and to preserve friendships with peers they have known from childhood. Yet, cultivating and nurturing friendships is especially important during adolescence.

10. In my experience, parental involvement in my children's schools has had a positive effect on the priority that my children place on school work and on the quality and frequency of communication between their teachers and me. Having my children assigned to a school far from my home would make it more difficult for me to be involved in their schools, and other PICS parents have similar concerns.

Appendix O

11. At the high school level, District high schools offer several academic offerings for high-achieving students, including honors courses and advanced placement ("AP") courses. AP courses are open to students with the ability and willingness to handle college-level coursework, work that is a good deal more challenging than that in a typical high school class. At the end of an AP course, a student may take a test that, if passed, may allow him or her to place out of classes in college or receive college credit. AP classes are appealing to many students who want to be challenged and who want to get a head start in their work toward a college degree. In making admissions decisions, colleges – particularly the most selective ones - look favorably upon students who have challenged themselves in such classes.

12. ATTACHMENT 19 of the materials submitted in support of PICS Motion for Partial Summary Judgment on Plaintiff's State Law Claims is a copy of a pamphlet that was distributed by defendants to students and parents interested in the Ballard biotech program during tours and information sessions held at the school during January and February of 2000.

13. ATTACHMENT 21 of the materials submitted in support of PICS Motion for Partial Summary Judgment on Plaintiff's State Law Claims is a copy of letters I received from defendants regarding my son's application to attend the Ballard Biotech program.

Appendix O

I declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Executed at Seattle, King County, Washington this 12th day of February, 2001.

s/ Jill Kurfirst
Jill Kurfirst

APPENDIX P — SUPPLEMENTAL DECLARATION OF MORGAN LEWIS IN SUPPORT OF DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT DATED FEBRUARY 16, 2001

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NO. C00-1205R

PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1, a political subdivision of the State of Washington; JOSEPH OLCHEFSKE, in his official capacity as superintendent; BARBARA SCHAAD-LAMPHERE, in her official capacity as President of the Board of Directors of Seattle Public Schools; and DONALD NIELSON, in his official capacity as Vice President of the Board of Directors of Seattle Public Schools; STEVEN BROWN, JAN KUMASAKA; MICHAEL PRESTON, BARBARA PETERSON; and NANCY WALDMAN, in their official capacities as members of the Board of Directors,

Defendants.

SUPPLEMENTAL DECLARATION OF MORGAN LEWIS IN SUPPORT OF DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

NOTED ON MOTION CALENDAR:

Friday, February 16, 2001

Appendix P

I, Morgan Lewis, declare:

1. I am the Manager of Enrollment Planning, Technical Support and Demographics for Seattle School District No. 1. My office is located at 4141 - 4th Ave. S., Seattle, WA 98134. I received my master's degree in economics from the University of Washington, which included specialized training in statistics, projections, demographic analysis, and forecasting. I am competent to testify in this action and make this declaration on personal knowledge and the official records and files of the Seattle School District.

2. Following the receipt of official enrollment data for fall, 2000, I analyzed what happened to the approximately 307 students whose assignments were affected by the integration tie-breaker for the 2000-01 school year. Of these students, I have been able track to the enrollment status of 293 as of October, 2000. Of this group, 209 were assigned to a school that was one of their choices (what we called a "non-mandatory assignment"). Of these non-mandatory assignments, 87 got the same school that they would have received without the integration tiebreaker. 93 additional non-mandatory assignments were to one of the over-subscribed schools (Ballard, Hale, Franklin, Roosevelt, or Garfield) due to waitlist movement and capacity adjustments. 29 received assignments to another school that was one of their choices. 84 students were assigned to schools that they did not choose ("mandatory assignments"): 29 of the mandatory assignment group ultimately were assigned to the same school as they would have received without the integration tie-breaker; 3 were able to move to one of the over-subcribed schools due to waitlist movements and capacity adjustments. The

remaining 52 students received mandatory assignments to the closest school with space available. However, 30 of these students did not enroll in the Seattle Public Schools for fall 2000. Of these 30, 16 were not enrolled in Seattle Public Schools at 8th graders, which suggests that they might not have attended in any event.

3. For the 2000-01 assignment cycle, for any white student in the District, if they had listed Franklin High School as one of their choices (and there is no limit on the number of choices), they could have been assigned to that school. Conversely, for any minority student, including those "bumped" from Franklin due to the integration tie-breaker, they could have been assigned to Ballard, Hale, or Roosevelt, if they made those schools one of their choices.

4. The Board of Directors of the Seattle School District made several changes to the high school assignment plan for 2001-02, which will reduce the impact of the racial tie-breaker in the future. First, the tie-breaker will apply only at the entering grades. Therefore, no transfers will be determined by the integration tie-breaker. Second, the Board changed the definition of "racial balance" from plus or minus 10% of the district's overall racial demographic to plus or minus 15%. This has the effect of rendering Roosevelt High School neutral for desegregation purposes, so that race will not be a factor in assignments to that school for next year. However, if the same set of schools is oversubscribed and the past year's choice patterns remain the same, the set of conditions described in paragraph 3, above, will remain in place: any student, regardless of race, will be able to be assigned to one of the over-subscribed high schools if they

so choose. Third, the Board directed that a "thermostat" be developed, so that if the integration tie-breaker results in an entering high school class coming into balance, the tie-breaker will be "turned-off." This will have the effect of reducing the number of 9th grade assignments resulting from the integration tiebreaker.

5. As a part of the assignment process, the School District calculates the distance from a student's home to a school. The straight line distance between the PICS' representatives homes, as identified on their enrollment records, and the identified high schools is as follows:

Name	*Ballard*	*Hale*	*Roosevelt*	*Franklin*	*Ingraham*	*Garfield*
Kurfirst	2.4	5.6	3.45	5.63	6.03	3.82
Brose	2.96	6.99	5.06	6.72	6.93	5.25
Bachwitz	2.17	6.04	4.08	6.48	6.09	4.79

6. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Executed at SEATTLE, Washington, this 14th day of February 2001.

s/ Morgan Lewis
MORGAN LEWIS

APPENDIX Q — SCHOOL BOARD ACTION (11/17/99) RE: REVIEW OF ASSIGNMENT PLANS*

SCHOOL BOARD ACTION

DATE: October 27, 1999

TO: School Board

FROM: Joseph Olchefske, Superintendent — Introduction: 11/5/99, Action: 11/17/99

RE: Annual Review of the Elementary and Secondary Student Assignment Plans

RECOMMENDATION

I recommend adoption of the following motion:

I move that, based on its annual review of the student assignment plans including staff reports and community input, the Seattle School Board make no changes to the elementary or secondary student assignment plans for the 2001-2002 school year, except as follows:

1. Reaffirm and restate the diversity rationale for using the integration positive tiebreaker (as set forth in the attached statement);

2. Change the definition of an integration positive school from +/– 10% to +/– 20% of

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* This document was located in the district court record as Attachment 17 to Korrell Declaration filed 2/16/01.

the District-wide minority/majority percentage; and

3. Implement the integration positive tiebreaker only at entering grade levels.

DISCUSSION

Concerns for the secondary student assignment plan include the imbalance in school choice and school effectiveness, the uneven geographic distribution of secondary schools, and set-aside seats for programs. There are no particular issues of concern with regard to the elementary program. Options to address secondary plan concerns include a no-change option and an option that would create geographic regions with a high preference for a single school. Community input heavily favored the no-change option and a strong focus on improving the quality of all schools.

With respect to the integration positive tiebreaker, seventy-five percent of all schools are now outside the district's current defined band of an integrated school (+/– 10% from the District-side average). If the band is not changed, more schools will be subject to the tiebreaker over time. A wider band would allow for a more targeted focus on schools that have significant racial concentrations. Currently, the tiebreaker applies at all grade levels, but it impacts few students at the non-entry level grades. Applying it to entry grades only will give it a more targeted impact.

Appendix Q

ATTACHMENTS

Board Statement Reaffirming Diversity Rationale

Staff: /s/ MSG
Mark Green, John Vacchiery

Appendix Q

DRAFT

Board Statement Reaffirming Diversity Rationale

The Seattle School District is fortunate to have the pluralism brought by the African American, American Indian, Asian American, Hispanic, and White communities and by the multi-ethnic groups within each. The school system's diversity reflects the increasing pluralism of the U.S. society and emphasizes the broader need for international awareness and cooperation. Diversity in the classroom increases the likelihood that students will discuss racial or ethnic issues and be more likely to socialize with people of different races. Diversity is thus a valuable resource for teaching students to become citizens in a multi-racial/multi-ethnic world.

Providing students the opportunity to attend schools with diverse student enrollment also has inherent educational value from the standpoint of education's role in a democratic society. The survival and strength of our democratic society depends upon an educated citizenry which shares concerns about the welfare of society, its members, and the democratic principles that govern it. Diversity brings different viewpoints and experiences to classroom discussions and thereby enhances the educational process. It also fosters racial and cultural understanding, which is particularly important in a racially and culturally diverse society such as ours.

The District's commitment to the diversity of its schools and to the ability to voluntarily avoid racially concentrating enrollment patterns also helps ensure that all students have access to those schools, faculties, course offerings, and resources that will enable them to reach their full potential.

Appendix Q

Based on the foregoing rationale, the Seattle School District's commitment is that no student should be required to attend a racially concentrated school. The District is also committed to providing students with the opportunity to voluntarily choose to attend a school to promote integration. The District provides these opportunities for students to attend a racially and ethnically diverse school, and to assist in the voluntary integration of a school, because it believes that providing diverse learning environments is educationally beneficial for all students.

Adopted November 1999

APPENDIX R — SECOND SUPPLEMENTAL DECLARATION OF MORGAN LEWIS RE: PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT OF THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE DATED MARCH 5, 2001

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NO. C00-1205R

PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1, a political subdivision of the State of Washington; JOSEPH OLCHEFSKE, in his official capacity as superintendent; BARBARA SCHAAD-LAMPHERE, in her official capacity as President of the Board of Directors of Seattle Public Schools; and DONALD NIELSON, in his official capacity as Vice President of the Board of Directors of Seattle Public Schools; STEVEN BROWN, JAN KUMASAKA; MICHAEL PRESTON, BARBARA PETERSON; and NANCY WALDMAN, in their official capacities as members of the Board of Directors,

Defendants.

Appendix R

SECOND SUPPLEMENTAL DECLARATION OF MORGAN LEWIS RE PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

I, Morgan Lewis, declare:

1. I am the Manager of Enrollment Planning, Technical Support and Demographics for Seattle School District No. 1. My office is located at 4141 – 4th Ave. S., Seattle, WA 98134. I received my master's degree in economics from the University of Washington, which included specialized training in statistics, projections, demographic analysis, and forecasting. I am competent to testify in this action and make this declaration on personal knowledge and the official records and files of the Seattle School District.

2. Exhibit A to my declaration of December 21, 2000 is a map depicting the racial make-up of the neighborhoods and the races of those students whose 2000-01 high school assignments were initially determined by the integration tiebreaker. Exhibit A-1 is a further refinement of that map, showing the racial concentration of Seattle's neighborhoods along a north-sound boundary roughly north of downtown Seattle, following the southern boundary of the John Hay, Stevens, and McGilvra Elementary School reference areas. Based on October 2000 enrollment, 58.3% of the District's total enrollment lives south of this boundary. However, 75.2% of the District's total minority enrollment lives in this area. Within each ethnic group, the following percentages live in the southern part of the City:

Appendix R

Ethnicity	% Live South
African Americans	83.6%
Asians	74.2%
Hispanics	65.0%
Native Americans	51.1%
Whites	33.2%

3. The District tracks the ethnicity of Asian students by country or region of origin. The following table depicts the Asian enrollment in the District for October 2000 by ethnic sub-group and region of residence, using the north-south boundary described above:[1]

Asian Enrollment by Ethnic Sub Group and Geographic Resident Region										
Area	CH	EI	FI	JN	KO	OA	SA	SO	VI	Total
North	748	198	408	520	285	165	49	218	288	2879
South	**1488**	**104**	**1707**	**235**	**116**	**258**	**448**	**1785**	**2128**	**8269**
Total	2236	302	2115	755	401	423	497	2003	2416	11148
% South	**66.5%**	**34.4%**	**80.7%**	**31.1%**	**28.9%**	**61.0%**	**90.1%**	**89.1%**	**88.1%**	**74.2%**

Within the Asian category, I have also examined what percentage of students receive English as a Second Language instruction, and are eligible for free or reduced lunch. The

1. Ethnicity is abbreviated as follows:

CH	Chinese
EI	East Indian
FI	Filipino
JN	Japanese
KO	Korean
OA	Other Asian
SA	Samoan
SO	SE Asian
VI	Vietnamese

following table presents that data, again broken down by geographic resident region:

Area	CH	EI	FI	JN	KO	OA	SA	SO	VI	Total
North	23	16	15	8	10	7	9	27	37	152
South	362	14	190	1	8	35	60	509	818	1997
Total	385	30	205	9	18	42	69	536	855	2149
% South	94.0%	46.7%	92.7%	11.1%	44.4%	83.3%	87.0%	95.0%	95.7%	92.9%

4. I have also superimposed circles on Exhibit A-1 showing what the "distance" tiebreaker would have produced for Ballard, Nathan Hale, Roosevelt, and Franklin high schools for 2000-01, in the absence of the integration tiebreaker. In other words, if the integration tiebreaker were not in effect, student living within these circles would have been assigned for 2000-01. Students living outside the circles would not have been assigned.

5. In the fall of 2000, in conjunction with the School Board's review of the assignment plan, District staff developed depictions of "ten region" and "five region" high school assignment plans, as proposed by Directors Petersen and Nielsen, respectively. Exhibit B to this declaration depicts the "ten region" plan, whereby each high school would have had its own region area. Exhibit C depicts the "five region" plan, whereby students within the defined area would be assured of assignment to one of at least two high schools specified for each region.

6. I have examined the Ninth Grade assignments to the Biotechnology Program at Ballard High School for 2000-01. Thirty-one students pre-qualified for this program, of which 11 were racial minorities. However, only 17 (6 whites/11 minorities) were assigned to Ballard under the plan. Of these

17, 12 are currently enrolled (5 whites/7 minorities). The remaining seats in the program were filled by students assigned to Ballard, who also met the prerequisites for the Biotech program. Of the Ninth Graders currently participating in the Biotech program, 17 are white and 10 are racial minorities.

7. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

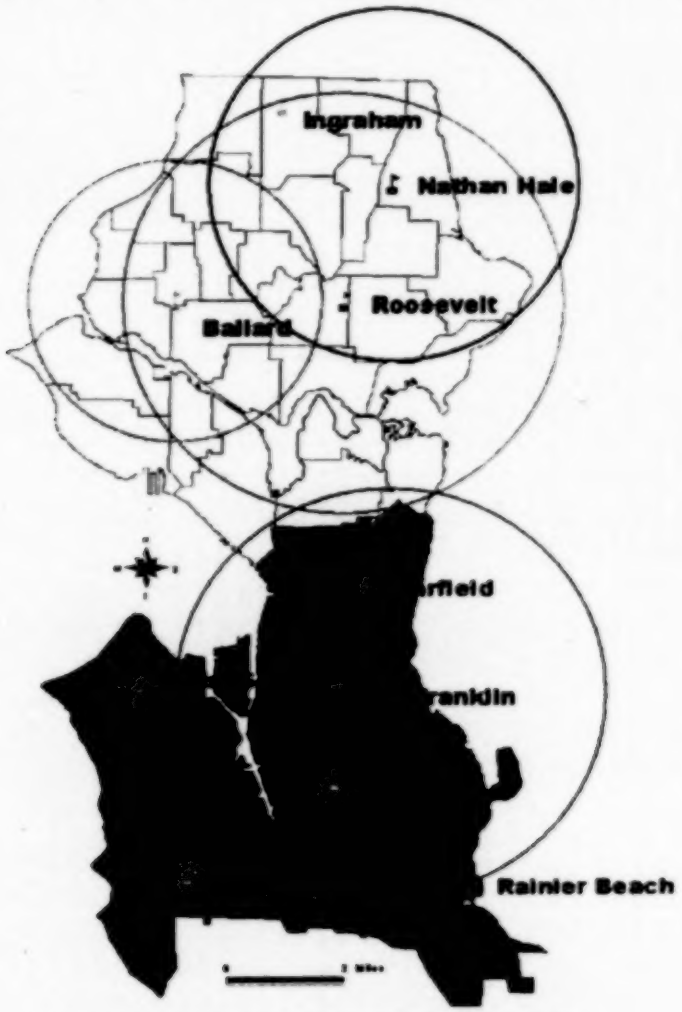
Executed at SEATTLE, Washington, this 5th day of March 2001.

s/ Morgan Lewis
MORGAN LEWIS

Appendix R

EXHIBIT A-1

Seattle Public Schools: Enrollment by Residence & Ethnicity



Geographic Area	A	B	H	I	W	Tota	% Minority
North	2879	1770	1083	634	12224	19922	38.7%
South	8089	9054	3145	882	6247	27377	77.2%
Total	11168	10830	4279	1397	18718	46922	59.9%
% Students South	72.2%	83.6%	65.0%	51.1%	33.2%	58.3%	

Map Created By: Morgan Lewis
Date: March 2nd, 2001
Data sources: Table - October 2000 enrollment extract
Business rules: - 2000-2001 choice data from online application period, 9th grade regular program.

BEST AVAILABLE COPY

APPENDIX S — EXCERPTED DEPOSITION UPON ORAL EXAMINATION OF JILL KURFIRST DATED FEBRUARY 5, 2001*

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

C00-1205-P

PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation,

Plaintiffs,

-vs-

SEATTLE SCHOOL DISTRICT NO. 1, a political subdivision of the State of Washington; JOSEPH OLCHEFSKE, in his official capacity as President of the Board of Directors of Seattle Public Schools; and DONALD NIELSON, in his official capacity as Vice President of the Board of Directors of Seattle Public Schools; STEVEN BROWN; JAN KUMASAKA; MICHAEL PRESTON; BARBARA PETERSON; and NANCY WALDMAN, in their official capacities as members of the Board of Directors,

Defendants.

DEPOSITION UPON ORAL EXAMINATION OF JILL KURFIRST

10:40 a.m.
February 5, 2001
999 Third Avenue, Suite 2150
Seattle, Washington 98104

* This document was located in the district court record as Attachment 2 to Korrell Declaration filed 3/8/01.

Appendix S

[Commencing at page 22]

* * *

Q. Tell me why you found Ballard the most attractive.

A. Ballard was the top of the list for a variety of reasons. While Andy was in middle school there was a similar sort of push on within the neighborhood to try and get neighborhood families who had previously applied to Roosevelt, Franklin and Garfield to take more interest in Ballard, because we could make it our own local school. And we had been pleased with the way in which McClure had succeeded in becoming our school and in educating our kids.

So there was a lot of rallying the troops at [23] P.T.A. meetings and at McClure functions where Ballard kids or Ballard parents would come, and anyone who had older siblings who had already kind of taken the risk and gone there were there saying good things. And letters came out from coaches saying, you know, come see the school. And we would get invited to go see band performances. Andy was in the band, so there was that affiliation and they had our names.

So Ballard, over the course of two or three years, went from being a school that you might give consideration to to the school that the kids at least were talking from the very beginning of eighth grade as, oh, yeah, that's where we are going. I mean, to the extent that trying to explain that you have to fill out these forms and; yes, we really have to go see these other schools; and yes, you have to have at least three

choices listed was me as an adult explaining to a teenager who thought that, oh, I'm going to Ballard, that's where everyone went, and that's where everyone wants to go. So there was that.

Ballard is truly the closest school to our house. So that's the second reason. Ballard is close to the house. Very easy to get to, harder to get home because it's getting back up Queen Anne Hill if you were to bike it, which we do. It's much harder than the coasting down and then riding a bike to Ballard, which is actually very doable [24] from where we were on Queen Anne Hill.

* * *

[28] * * *

Q. Why wasn't Garfield one of your choices?

A. The day we drove by Garfield was not a good day for Garfield. I'm trying to think of the most diplomatic way to put this. And I've since come to learn why sometimes it doesn't look so good in the neighborhood immediately around Garfield.

Which is that, as odd as this may sound, apparently they choose a corner very near Garfield when they release people from jail. Adults, I'm talking about adults. And so there was — when we drove to Garfield that day, there were two or three blocks surrounding Garfield where there were police cars, there were seedy characters, there were people, you

know, doing whatever it is called where you are being frisked against the car. I mean, you know, it was not a good scene.

* * *

[31] * * *

Q. Do you have any impressions of Ingraham that you formed from your paper review?

A. It wasn't as strong with regard to AP classes as the other two, for instance, that you just asked me about.

[32] Q. Okay.

A. I think its test scores were not as high.

* * *

Q. In terms of academic program, what were you looking for for Andy?

A. Well, he's clearly college bound. That's not just my decision. That's even something that he speaks of. So I won't have to force him to leave the house, thank goodness.

Q. You hope.

A. Aren't you supposed to move while they're gone and then not tell them? So because he's college bound, a strong academic program is really what we were looking for.

* * *

Appendix S

[34] * * *

Q. Did you and Andy try to prequalify for the biotech program at Ballard?

A. We did.

Q. And in fact did you receive a letter telling you you met the qualifications?

A. We did.

* * *

[35] * * *

The program has science in all four years with a focus on experimentation, which I saw as being really good, and which Andy was really wanting to do. And then they have what they call mentorships and internships, which are both really excellent. They have people from the community who [36] have partnered with the school.

* * *

[37] Q. Were there any other kinds of I'll call them special programs, something like Ballard biotech, that you identified either at Ballard or at some other high school that attracted you?

A. Nathan Hale has I think they call it ninth grade academy where they make sure each student has a particular

teacher assigned to them that they meet with quite regularly, I understand, I think on the order of once every week, maybe once every two weeks for a one-on-one. So that that teacher — oh, and then that teacher's responsibility is also to make sure that they are in touch with all of the student's teachers so that there's a dialogue between an adult who has an academic background and a student as to what the expectations are and how they are doing and are they keeping up with their work, and if they are having trouble, what can be done.

* * *

[41] * * *

Q. (By Mr. Madden) I think we were starting to touch on this Roosevelt as a third choice. But just specifically, you had to make one, Roosevelt was it. Why Roosevelt versus any other school?

A. Test scores, closeness to the house. We knew some other children who would be going there.

* * *

[43] * * *

Q. I guess I asked you this in a broader form, but are you knowledgeable about the residences of those members?

A. To some extent.

Appendix S

Q. How many would you say are residents of the Queen Anne neighborhood?

A. I don't know specifically neighborhood to neighborhood, Mike, in that way, so I would be venturing a guess.

Q. How many live south of the ship canal?

A. That's an easier answer. Between 20 and 25 percent.

Q. And do you know what neighborhoods those folks live in?

[44] A. I know we have members from West Seattle, and I know we have members that would be considered more central south addresses. Then we have some members that we don't have addresses for.

Q. Another facet of this topic that we asked for someone to testify to was the racial demographics of PICS members. How many either as an absolute or percentage of your members are white?

A. The majority of our members are white, but I can't — the majority of the members that I know are white. I can't really speak to that answer the way you would like it spoken to because we don't really have a place to designate race on the membership card, so I don't have stats like the school district has stats.

Appendix S

Q. Have you had a general membership meeting?

A. Not since the corporation was actually formed.

Q. Do you have any African-American members?

A. Yes.

* * *

[52] * * *

Q. Your son Andy ended up being assigned to Ingraham?

A. Yes.

* * *

[55] * * *

Q. Combining your impressions and Andy's after you investigated Ingraham, what would you say was the most important factor in making you decide to look elsewhere?

A. Andy's disappointment with the level of challenge of the academic core courses.

* * *

Appendix S

[60] * * *

Q. Tell me what you recall of those discussions.

A. Well, I know that Winnie's child also applied to Ballard and also made a separate application as we did to the biotech program. So I am aware that her child was also interested in that special science program.

* * *

[61] * * *

Q. It says here in Exhibit 35 regarding Ms. Bachwitz that because of her daughter's race she was denied admissions to those schools, meaning Ballard, Roosevelt and Hale, and assigned to Ingraham High School.

Do you know, is her daughter attending Ingraham High School?

A. Winnie's child is not attending Ingraham High School.

Q. Do you know where she is attending school?

A. Yes.

Q. Where?

A. Blanchet.

Appendix S

Q. And have you discussed with Ms. Bachwitz, or her [62] daughter for that matter, why they decided to go to Blanchet?

A. In general terms.

Q. Okay. Generally, what do you know?

A. That the quality of the education at Blanchet and the distance from their home is considered more desirable than Ingraham for those same two reasons.

Q. Do you know what the particular quality factors were for her in maki g that decision?

A. Again, I know her child is college-bound, and there was — and I know that Winnie felt that the test scores or the report card for the school — I don't know how to express that properly — but the way in which the students perform on standardized tests was better.

* * *

[101] * * *

Q. Have you encountered situations where a PICS parent has indicated, you know, I wanted to get my child into this particular school because, for instance, they have a great basketball program or track or any other sport?

A. It's really — there are different sports, but in part it has to do with how close the school is to the home. And this

was another one of my famous presentations before the school board.

Because if you have to ride three Metro buses home as you do from Ingraham to get to either Magnolia or Queen Anne or Ballard, it makes it very difficult for your child student to participate in any after school sport. Because by the time they're home, it's another hour and 45 minutes to two hours and five minutes, and then they're starving and they have to eat because they haven't eaten [102] dinner, and then they have to do homework and they are exhausted so they are not doing as good a job. And then they have to get ready to get back on the school bus to get to school on time the next morning.

So when you take these different schools into effect, you want a school that your kid can both have a good education, participate in the after school activities and actually get home at a reasonable hour without relying on them each having their own car or being transported by other students that can be, you know, questionable at best.

And you want them to be able to go to the games, and you want them to be able to get to those games with ease and get home again safely.

* * * *

APPENDIX T — EXCERPTED DEPOSITION UPON ORAL EXAMINATION OF MORGAN LEWIS DATED JANUARY 22, 2001*

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

NO. C00-1205 P

PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1, a political subdivision of the State of Washington, et al.,

Defendants.

**DEPOSITION UPON ORAL EXAMINATION
OF
MORGAN LEWIS**

January 22, 2001
1501 Fourth Avenue, Suite 2700
Seattle, Washington

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* This document was located in the district court record as Attachment 3 to Korrell Declaration filed 3/8/01.

Appendix T

[Commencing at page 31]

* * *

Q. I'd like to know the percentage and, if you know it, the gross number of assignment decisions that are made based on the operation of these particular tiebreakers.

A. Well, at high school I believe there were slightly over 300 students whose assignment was a direct result of a diversity tiebreaker, integration tiebreaker. In other words, without that tiebreaker [32] they would not have received the assignment they have.

* * *

[35] * * *

Q. Do you know if anyone in the district has been charged with developing an answer to that question? More specifically, why the choice patterns in the last two years have been — if I understand the statistics right, some 82 percent of people chose one of these five oversubscribed schools as their first choice, is that correct?

A. Right, that's correct.

* * *

Q. Now I'd like to go back to these percentages we were talking about, and with the understanding that we can't control what parents do, in terms of their choices, and that

those choices may be influenced by the rules themselves and by other factors.

Can you tell me what percentage of student assignments were determined by the race of the student?

[36] A. I believe I've already said about 300 students. And so if you — I'd have to get the exact number, but of entering high school freshmen — actually, it would be all grades last year, but there were probably around 3,000 or so. So probably ten percent. I mean that's — I'd like to see my exact data, but that's probably a good approximation.

* * *

Q. Just so that we are clear, for what year are you offering this 300 number?

A. This was for the applications for the 2000-2001 school year.

* * *

[37] * * *

Q. (By Mr. Korrell) The next tiebreaker that you mentioned was distance. Do you know roughly what percentage of student assignments were determined by the operation of the distance tiebreaker in 2000-2001?

A. If you start at 100 percent of the assignments for high school and factor in the five to [38] 20 that I gave you for

sibling, and if we're using that estimate of about ten percent, then, in essence, virtually all of the rest of the assignments would be done by distance. And the reason for that is distance is calculated to one-hundredth of a mile. So you would have to have students with the exact same sibling, diversity and distance to have a lottery tiebreaker actually be the deciding factor.

So lottery happens more often at schools where distance isn't calculated. So at regular program high schools distance is calculated. So virtually all of the remaining assignments will be done by distance.

* * *

[39] * * *

Q. (By Mr. Korrell) I'm sorry, I am asking a more specific question than I have asked before. You have generally described for me the Open Choice plan and the order of the tiebreakers. And I'm curious to know now specifically when does a race tiebreaker come into play?

A. The race tiebreaker would come into play at high school where, based on the — if we think of two years — for example, if the October 1999 enrollment at a high school was outside of the definition of diversity, so the district-wide enrollment was 59.8, and if the school was plus or minus more than ten-percent minority from that level, the school would receive an integration status that was positive for the underrepresented group.

Appendix T

Every student who chooses that school in the choice process would, as part of their calculation of tiebreakers, have their ethnicity compared to the integration status of the school to decide whether or not their presence would positively contribute to the diversity of that school. And if [40] so, they would receive that tiebreaker advantage.

Q. So if I understand this right, when the — when the school's population deviates in 2000-2001 assignments, where the school's population deviated by more than ten percentage points from the definition of diversity, the integration tiebreaker or race-based tiebreaker kicks in, correct?

A. It's — I wouldn't say "kicks in." And again, I'm — there is a — October 1 is the official enrollment period for state reporting. And based on the demographic composition, racial composition of a school October 1, the school's integration status for the following year's student assignments will be established.

Once established — under the old policy, once established, it would stay that way for the entire processing period for the next year. So if a high school was integration positive for whites and white students were choosing that school in the on-time period, they would receive the tiebreaker. The tiebreaker would affect assignments, possibly, if the school was oversubscribed, as well.

Q. And just so we're clear, under the 2000-2001 plan, that happened at schools where the racial composition was more than ten percentage [41] points from the school district's established balance?

Appendix T

A. We had high school — we had regular program high schools who went into that 2000-2001 processing being designated as integration positive for whites or minorities, and we also had those schools be oversubscribed. And therefore, that tiebreaker's impact would be felt.

* * *

[43] * * *

Q. What determines the capacity of the individual schools?

A. Principals, school site councils, the superintendent.

[44] From my perspective, I see it as a collaborative process. Schools request a certain capacity that they feel they can serve in their building for physical reasons, academic reasons, programmatic reasons. And that's the capacity I run off of, in terms of trying to process students into those seats.

Q. Am I right, then, that a school's physical capacity could exceed the established capacity for the year but would be determined by other factors, such as program and academic goals?

A. Capacity is — it's a tough number to pin down. An example, 30 years ago there were 100,000 students in Seattle and high schools ran at 3,000 students and ran two shifts. So it's — I mean capacity is — I mean it's what it is, in terms of the way we choose to run our buildings, but, at the same time, the deference to me is to the academics of the program

managers, the principals to say this is how many students we can serve comfortably or safely or whatever.

Q. And you are talking to someone who is uninitiated in the ways of education policies, so I am trying to learn the terminology.

My understanding is that there is a — it [45] sounds like there is a difference between what the district determines — this collaborative process as the school's capacity for a year, that's different from a simple calculation of the school's physical capacity, is that correct?

A. It's very possible that the physical calculation, the number of classrooms times the number of students per, you know, those kind of calculations, could be different than the capacity that the school feels they can comfortably serve. And there could be dozens of reasons why those differ.

Q. Sure. I'm just trying to understand the terms.

For the district to be able to operate a race-based tiebreaker, it is necessary, of course, for the district to know the race of the student at issue, correct?

A. Correct.

Q. And it's my understanding that that is something that a parent does when registering for attendance at Seattle Public Schools, is indicate the race of his or her child, correct?

A. There is a space on that registration form for race, yes.

Appendix T

[46] Q. Do you know what happens to a child's — let me step back.

How is a child classified for purposes of the operation of these tiebreakers if his parents refuse to identify the child's race?

A. My understanding — the enrollment center, the enrollment processing is really not my area of expertise. But my understanding is that the enrollment center specialists will make a determination based on the ethnicity of the parent who is present.

* * *

Q. A person, a parent will fill out a form, [47] refuse to mark race. Is it your understanding that the district employee receiving this registration form will mark a race for that child based on his or her perception of the parent?

A. That's my understanding.

Q. Are these forms always submitted in person, or is there a mechanism for mailing them?

A. The only time you would fill one of these forms out is if you're new to the district. And a new person to the district is required to physically show up somewhere to establish whatever. I mean you can't be a new person and just show up through the mail or something.

Q. Do you know what happens — do you know how a student is classified for purposes of the operation of these tiebreakers if the parent indicates more than one racial category?

A. I do not. There are racial categories that reflect that particular designation. For example, Hispanic black is a category that a parent could choose and could indicate. But I don't know how they would do something that isn't part of the group.

Q. Am I correct there is no category that would allow a parent to mark both Caucasian and 25 black, for instance?

[48] A. There is not.

* * *

[57] Q. Let me step back. You explained to me the kind of report you were asked to generate. And if I understand you correctly, you said that was a summary of which schools would be in balance, which schools would be out of balance, depending on which — on what the definition of balance was, correct?

A. Right.

Q. Do you remember being asked to do any research or run any studies or tests to determine the effect on the district's racial composition of other approaches to student assignments?

A. Not with respect to the diversity of the school, no.

Q. With respect to other aspects, do you recall anything like that?

A. Well, there were — both Director Peterson and Director Nielsen proposed regional plans that were considered at the time that they adopted the plans in November.

Q. Were you asked to do anything with respect to those plans?

A. I provided capacity and resident head counts of the proposed regional plans from the perspective of were there enough seats within a region to meet the residents if every student chose [58] to go to that school.

Q. Did the district do any analysis of the effect that these plans would have had on the racial balance of the district's high schools?

A. I can't say about the racial balance in the high schools. We, in the regional plans, we looked at the racial composition of the resident students. But that was mainly from the perspective of if I draw a region around a school that has 1,000 high school students, is there a high school in that region that can serve 1,000, and what are the demographics of those students who live there? It doesn't address whether or not they will choose that school or not.

Appendix T

So what the school actually would look like is something I can't answer. You can make the assumption that if everyone chooses it this is what it would look like.

Q. Do you know if there was any attempt made by district staff to estimate what those choices may be and what the consequent racial balance would be?

A. Not in choices, just in resident populations of the underlying geographic regions.

Q. Do you remember any other plans that were considered by the board, prior to the November change in the assignment plan?

[59] A. I think Director Nielsen proposed a tiebreaker that involved free and reduced lunch price status.

Q. Were you asked to do anything with respect to that proposal?

A. Other than counting kids who were eligible for free and reduced lunch by grade. That particular proposal never went anywhere, in terms of assessing how you would implement it, so that I could say to him this is how many students would or would not be eligible for your proposed tiebreaker.

Q. What do you mean, it "never went anywhere"?

A. Director Nielsen never asked for more information. As far as I know, again, I'm just hearing what I heard in the board meeting, he was just proposing it.

Q. So were you asked at some point to count the numbers of students who qualified?

A. Free and reduced lunch price data is a what I call regularly-collected piece of information. It's in all of the databases I gave you. So it's a little bit like what we had talked about before, it's just hitting a button and saying here is how many kids by grade or by resident region or whatever.

Q. Did — was district staff asked to look at [60] what effect such a proposal would have on the racial balance at the various high schools?

A. No.

Q. Have you ever done that yourself?

A. No.

Q. Do you have any idea what the result would be if that were used in place of a racial tiebreaker?

A. I would be guessing. I don't know.

Q. Can you give me an informed speculation as opposed to a wild guess?

A. There are about 18 or 19,000 students in the district eligible for free lunch. Whether or not, again, it — there is no tiebreaker that's been discussed, so I wouldn't know how to apply that, whether or not a student would be — would receive the tiebreaker or not. I mean I know the numbers of

kids who are free lunch kids and things like that, but I don't know how they would be impacted by a policy that was never verbalized.

Q. Do you know what the racial breakdown is of the group of students who qualify for the free and reduced lunch program?

A. That should be easily — I mean I would guess with the data we could just give you whatever way you want to go.

[61] Q. Do you know off the top of your head?

A. No.

Q. Has district staff, and again, with respect — I'm thinking with respect to these — to the changes made in November of 2000, was district staff ever asked to analyze what the effect of a pure lottery would be on the racial balance at the various high schools, or using lottery at a higher tiebreaker level than it currently is used?

A. The only discussion about lottery was your first comment, what would a pure lottery look like. The answer is it would look like the district average at every school.

I mean if the lottery was perfectly random, then we'd be — we'd be — every school would be the district average, at least with respect to the kids that we process in the, you know, the on-time period, because that's the only one it applies to.

Appendix T

Q. Was district staff ever asked to consider the effect of lottery at a different — other than a pure lottery; that is — that's awful. Let me try it again.

You testified there was some discussion of what a pure lottery would result in. And I'm wondering now was district staff ever asked to [62] analyze the effect of using lottery earlier in the process than as the last and final tiebreaker?

A. No.

* * *

[69] * * *

Q. And is that the same source for your information here about the population of school-aged children being about 50 percent white?

A. No. That is a combination of what we know about Seattle public school children and specifically what we know about private school students in this area. It doesn't — I mean there would be homeless — there would be some students that wouldn't be in that percentage. But basically the 50 percent white reflects a combination of public and private in the year that we actually have data reported.

Q. So this 50 percent white figure for school-aged children is taken from the data submitted to the Superintendent of Public Instruction?

A. Yes.

Appendix T

Q. Do you have any information about the — about any trends in the racial demographic of the City of Seattle subsequent to the 1990 census data that you referred to here?

A. No significant trends that I'm aware of.

Q. What do you do, if anything, to keep yourself apprised of that kind of information?

A. Well, unfortunately, sometimes city-wide [70] data is hard to obtain, other than census data. It's one of the only times where we count heads. But Puget Sound Regional Council provides regional forecast information, not always by minority/majority categories. We can look at migration data from the state, primarily driver's license information about in and out migration. There are a few forecasting agencies in the city that try to project employment and growth.

And other than that, we have the luxury of knowing exactly what our individual students are each year. So that's not so much as a projection as an actual counting.

Q. With respect to the city's overall racial demographic, have you done any research to determine whether there have been changes to this 75/25 breakdown since the 1990 census?

A. No.

Q. Do you know if anyone at the district has attempted to do its own update of that 1990 data?

A. No.

* * *

Appendix T

[74] Q. In paragraph seven, the first sentence says that, "the application of the tie-breaker resulted in the assignment of 89 more white students who chose Franklin than would have been enrolled there in the absence of the integration tiebreaker."

I realize this may be a simplistic question, but the result of that, am I right, is that a corresponding number of minority students who chose Franklin were not assigned there?

A. That's correct.

Q. The next sentence addresses Roosevelt, and I'll ask you the same question. You indicate that 82 more minority students were assigned there by virtue of the tiebreaker. The consequence of that is that 82 white students were denied seats there by virtue of that tiebreaker, is that correct?

A. Yes.

Q. And the same issue for Hale — I'm sorry, for Ballard, 107 minority students assigned as a consequence of the tiebreaker, and thus 107 white students denied assignment because of the tiebreaker?

A. That's correct.

Q. On this one we ought to — let me finish and then you get your answer in. We're going to anger the court reporter here.

[75] And the final question on this paragraph, it's the same one, for Nathan Hale, 27 more minority students enrolled as a result of the tiebreaker and, as a consequence, 27 white students denied a spot there because of the operation of the tiebreaker, correct?

A. Correct.

Q. The next paragraph, paragraph eight, you say that, in the second sentence, "Seattle has had and continues to have racially concentrated neighborhoods."

What do you mean by "racially concentrated neighborhoods"?

A. Areas of the city where the underlying population of either public school districts or residents is primarily white or minority.

Q. Now, you've mentioned two different measures, the population of public school districts and overall population. To which do you refer here when you refer to "racially concentrated neighborhoods"?

A. I think both.

Q. And do you have a cutoff in mind of when a neighborhood constitutes a racially concentrated neighborhood as opposed to one that is not racially [76] concentrated?

A. No. I mean I guess it's — it's a statistical comparison of saying what the average in the city is and then looking at places where that's above or below that average. In other words, if the city before was 75 percent white and 25 percent minority, if there were areas of the city that were, say, 60 percent minority, I would consider that to be concentrated as comparison to the city average.

Q. Is that what you mean by racially concentrated, then, that the population differs substantially from the city-wide breakdown?

A. The city is a — the city doesn't distinguish, it's the entire city's average within that city. If you break it up into, say, reference areas that we provide, you may find reference areas that are dramatically different composition than the city average. So that's what I'm referring to.

Q. So the city average is approximately 75 percent white, 25 percent minority based on your — based on the census data you referred to, correct?

A. Uh-huh.

Q. So if a neighborhood is 75 percent white and 25 percent minority, that is not a racially [77] concentrated neighborhood the way you're using this term because it reflects the city average?

A. Well, I guess that's kind of a "Yes" and "No." I mean it is — it is the city average, but one group as compared to the other is significantly overrepresented, in terms of to each

other, compared to the district average, that that looks like the district average. The average is not 50/50, is where I'm at on that.

Q. I understand that. And what I'm trying to figure out is you refer to something that you are calling racially concentrated neighborhoods.

A. Right.

Q. And I'm just curious, when you were thinking of a racially concentrated neighborhood, what are you referring to? Are you referring to one that is — has a — that is significantly different from the racial breakdown of the whole city, or if a — just 55 percent white and then 45 percent minority, does that constitute racial concentration?

A. In the context of this map, I think it's — it's fair to say that it's looking at whether or not one specific minority or majority group is the predominant group in that area. In other words, an area that was 80 percent white and 20 percent [78] minority would have a high concentration of white residents. It might be the district average in the example, but it still has a high concentration of white residents.

Q. That much I understand.

A. Okay.

Q. What I'm trying to understand is is that what you mean by a racially concentrated neighborhood? We'll look at the map that you've attached as Exhibit A. I'd like to talk

about the specifics on that in a second. But a hypothetical neighborhood of 75 percent white, 25 percent minority, is that a racially concentrated neighborhood?

A. Yes.

Q. So it's not just a deviation from the district average that determines whether or not a neighborhood is racially concentrated, there is some other measure?

A. Again, I know the characteristics of the district students, in terms of those kids. And I'm not sure — maybe I'm not answering your question.

Q. Yeah, and I'm not trying to have an argument with you, I'm just trying to figure out what you mean by "racially concentrated neighborhoods" [79] when you say, "Seattle has had and continues to have racially concentrated neighborhoods."

A. The generic — the general — the general interpretation is — or my general message in that is that we don't have a homogeneous district, it doesn't look the same from one end to the other. There are areas of the city that are — like I said, if the average is 75/25, there are areas that look like that, but that is still not what I call homogenous. It might be the higher average. There are also areas that are 95 percent white and five percent minority and 95 percent minority and five percent white.

The concentrations that I'm referring to, it's at least my intent to show the district is not just one smooth demographic from the entire end. And that's really all I'm trying to show or trying to illustrate.

Appendix T

Q. When you refer to "racially concentrated neighborhoods," you're basing that on the census data as opposed to the high school population, is that correct?

A. Yes, yes.

Q. Do you know how the distribution of races in Seattle is different now from the distribution in I would say the mid-70s?

[80] A. The actual down to our kind of units of measurement I probably can't do that, because that data in the past isn't always as accessible as I'd like. So no, I can't answer that.

* * *

[81] * * *

Q. Please do, because I'm just trying to understand the numbers we're talking about here.

Do you have any information about the — about the changing demographics of Seattle's neighborhoods? Apart from school enrollment, do you know if certain neighborhoods are becoming more racially concentrated or less racially concentrated by virtue of natural housing patterns and —

A. Until we get the 2000 census data, it would be — the specifics of a tiny geographic area, other than the data of the students we have in the Seattle Public Schools, I would be — they would be pretty tough to do.

Appendix T

Q. So you don't have any information about the [82] trends in Seattle individual neighborhoods that you refer to here in paragraph eight?

A. The neighborhoods, if I use the underlying district enrollment as a proxy for the neighborhoods, then I can — then there are places where it's apparent the neighborhoods are — either they're continuing to stay racially concentrated or they're becoming more concentrated, based on the population of public school students that I do know more about, more so than census data.

Q. So it's possible that the resident population of the school district is getting more racially concentrated in area, but the area itself could, in fact, be becoming less racially concentrated, students just aren't attending the public school, is that correct?

A. Adding on to that — I mean the private school enrollment is another factor, which is — in some sense it's the remainder of who is left of school-aged children, more or less. And that demographic is not changing, in terms of minority/majority in a dramatic — or in a trendable way.

So combining those two, I would — my best estimate would be no. But the scenario you illustrated a moment ago is possible, I mean where [83] the resident population is doing one thing and the student enrollment is doing something else. That is possible.

* * *

Appendix T

[88] * * *

In paragraph 13 of your declaration, you observed that, "the goal established by the school board of attaining a level of diversity within the schools that approximates the district's overall demographics cannot be accomplished within the reasonably foreseeable future unless some students are assigned to schools other than their nearest or next nearest schools."

What do you base that observation on?

A. I think that's a combination of the questions you've a[illegible]d me already about the district's policy and definition of neutrality is representative of the district, which is plus or minus ten percent, or 15 percent now from the district average. And if the resident enrollment populations are significantly different than that, in other words, if — I guess the easiest way to answer [89] it is with an example, is that if we just assign the neighborhood students around Franklin to Franklin, that would not — that probably would leave Franklin in a position where it was dramatically different than the district average and it would be outside the definition of diversity. In other words, the neighborhood students around most high schools don't reflect the district demographic.

Q. So I guess my next question, then, is with — does your observation in paragraph 13 take into account any trends in the changing demographics of the city's neighborhoods?

A. I think in 13 it's easier or it's more applicable to compare the residents of Seattle Public Schools with the — around a high school versus the residents of Seattle Public Schools as a district. In other words, this is really not looking at — it doesn't

even have to look at the ethnicity of the people in Ballard who don't have kids. It's just saying if I just had all the school-aged children who live near Ballard go to Ballard, it would be a dramatically different school than the district average. So I think that this — you could just as easily have this just within the school district context.

* * *

[145] * * *

Q. The Urban League, as I understand it, commissioned a work group to look at school [146] assignment practices and made some recommendations to the school district. Are you familiar with that?

A. Yes.

Q. Were you ever asked to do any analysis of the effect of any of the proposals made by the Urban League?

A. I'd have to revisit the proposals to see if they were similar to any of the proposals by the board members. But as an aggregate proposal, no.

* * * *

APPENDIX U — EXCERPTED DEPOSITION UPON ORAL EXAMINATION OF DONALD PETER NIELSEN DATED JANUARY 29, 2001*

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

NO. C00-1205 P

PARENTS INVOLVED IN COMMUNITY SCHOOLS,
a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1, a political subdivision of the) State of Washington, et al.,

Defendants.

**DEPOSITION UPON ORAL EXAMINATION
OF
DONALD PETER NIELSEN**

9:25 a.m.
January 29, 2001
1501 Fourth Avenue, Suite 2600
Seattle, Washington

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* This document was located in the district court record as Attachment 4 to Korrell Declaration filed 3/8/01.

Appendix U

[Commencing at page 27]

* * *

Q. Why has that — the idea of magnet programs not been instituted?

A. It has been instituted. We have a variety of programs in our various schools.

Q. Such as?

A. Oh, we have the various academies, we have a finance academy down in Franklin, we have a travel and tourism academy at West Seattle, we have a technology immersion program at Cleveland. We just put in the International Baccalaureate at Ingraham. We started a program under Stanford's leadership at Meany Middle School that didn't work and I think was — he put the wrong principal in the school. It was the right idea but the wrong leadership.

Q. To your knowledge, have these various [28] academies you've described been attractive in drawing students to the school that wouldn't normally have applied to that school?

A. Some have. I think it will be more pronounced as we go forward.

Q. And why is that?

Appendix U

A. I think we're doing a better job, I think we have better leadership, and I think we have better programs that we're putting in place.

Q. Did you ever discuss using race for voluntary transfers only?

A. What do you mean by that?

Q. And when I'm asking these questions I'm referring in the context of when you were moving away from Controlled Choice. There has been notes in the literature about having voluntary racial transfers, where you wouldn't — you wouldn't deny anyone admission to a school on the basis of race or force anyone to go to a school on the basis of race, but you would allow somebody to voluntarily — they would get preference to voluntarily transfer to another school based on the race and the racial makeup of that other school, as I understand it.

A. That's been discussed.

* * *

[33] * * *

Q. Why is that?

A. Well, the statistics are pretty — the research is very clear that poverty is a much bigger factor in academic achievement than is race. And the other reason is the definition of race is becoming more and more cloudy as our society becomes more and more integrated.

Appendix U

At what percent of blood line is a person an African-American? I don't know. But we have — we have people with ten percent, 20 percent, 30 percent, 40 percent, 50 percent, 90 percent, 100 percent. At what point is someone an African-American?

Q. Why is that issue problematic for the assignment plan?

A. Well, you have to mark down your race on [34] the sheet. And I think race is becoming less and less of an issue.

Q. Are you saying that it — it opens the door for people to abuse what race they can mark, based on —

A. Oh, obviously it does that. And some people do abuse it. We have people who look like me who have marked down various races.

* * *

[36] * * *

Q. Do you think that the Seattle School District has been — the Seattle School District high schools have been segregated at any time in the past [37] 20 years, as you define the word?

A. Have they been segregated in the last 20 years? No.

Q. Do you know why the school district uses the 60/40 number that they use for their racial balance guideline?

Appendix U

A. Well, I think they believe, "they" being my colleagues, that we should use the racial makeup of the city's school system as the basis to determine racial balance. I happen to disagree with that.

Q. What do you think should be used?

A. I don't think we should use race at all.

Q. Has the board ever looked at using the makeup of the high school aged children in Seattle, private and public school?

A. No, I don't think that — not in my time.

Q. What about the city as a whole, the racial makeup of the City of Seattle as a whole?

A. Well, if you were going to use race, which I wouldn't do, but if you were, I would certainly use that percentage before I would use the one we use.

Q. And why is that?

A. To me it makes more sense.

One of the reasons we have 60 percent minorities in the school system is not because we are [38] so attractive to the minority population, it's because we have been unattractive to the majority population.

* * *

Appendix U

Q. So in your mind, you would just — you would not use race as a tiebreaker and let schools go to their natural — just natural choice patterns?

A. That would be my preference, but I think in order to gain support of my colleagues I would have to have the economic factor involved to get anything passed. I would not be successful in not having some criteria that would diversify our schools.

[39] Q. Do you know why diversity is so important to your colleagues? I've talked a little bit about them thinking it has educational value. Any other reasons?

A. Well, I think the history has been that minority-impacted schools have traditionally been less effective in the education of children than majority schools. And so the feeling is that in order to effectively educate minority children we must get them into schools that have a large percentage of majority. That's the feeling. But the fact, in my mind, the fact that minority-impacted schools are not effective educational learning environments has nothing to do with race and everything to do with the educational program and quality and capabilities of the adults in that building.

* * *

[40] * * *

Q. Do you know why your colleagues or you chose the ten-percent band for Open Choice one?

A. Well, that was in place when I got on the board, and we didn't change it when we did Open Choice one. We changed it this last time to 15 percent.

* * *

[48] * * *

Q. And how — how is it different from Director Peterson's ten region plan? Just the number of regions?

A. Well, it gave a choice to two schools. Her plan gave a preference to only one school.

Q. And why was that plan rejected?

A. Same reason mine was. I think the feeling of our colleagues was that our high schools are different enough that we should offer the option of going to any high school to the whole city.

Q. And what do you mean by the high schools are different enough?

A. Well, they have different programs and different academic — they have different academic programs and they have different extracurricular [49] programs. Garfield, for example, is noted for its orchestra. Ballard has a biotechnology program. Franklin has a mock trial program. West Seattle has a travel and tourism academy. Nathan Hale has a freshman and sophomore academy.

So there is sufficient differences in the high schools that my colleagues felt you should not be prevented from going to the high school you wanted to go to as opposed to just the neighborhood school.

* * *

[52] * * *

Q. You mentioned some of the programs that the schools have that may be attractive to some students, like the travel and tourism academy and the Ballard biotech academy. What is your understanding of how the Ballard biotech program works for a student who wants to participate in it, how they apply?

A. Well, we had an application system for that academy that I think was misleading. Even though it said on the application form it did not guarantee admission, the implication was that you had to apply to get in. So I think — I don't know, rephrase the question.

Q. How does it work if a student wants to [53] apply to that program, what —

A. The way it was set up early, and I don't know how it's going to be set up this year, but middle school kids got an application form for application to the academy, in addition to the school. And the reason they did that is they didn't want people going into the biotech academy who weren't interested in it and who weren't really interested in science. So they were looking for that kind of person. But

the form, as I'm — and I looked at the form, it's very clear, it didn't guarantee you admission.

Q. So there were students who went through this application process and were admitted to that program but couldn't participate because they weren't admitted to Ballard?

A. They were, yeah, that's right.

Q. And do you know how that program was filled after those students were unable to participate?

A. Well, it was filled by those who got into Ballard who chose to go into the program.

Q. We talked to Director Preston on Friday, and he mentioned a proposal that he made. He was concerned about kids being guaranteed admission to schools if they got into the special programs that [54] they applied for.

A. Right.

Q. Do you remember him making that proposal?

A. Yes.

Q. Did you agree with that proposal?

A. Yes. I — if we're going to have an application to a specific program, then it seems to me that if you get into that program you should get into the school or we should not have an application.

Appendix U

Q. Are there any other programs that you're aware of at the Seattle public high schools that are like the Ballard biotech program? By that I mean you have to go through an admissions program to get into the program.

A. Advanced placement at Garfield. That's the only other one. And the biotech program was not the same as advanced placement, because advanced placement is a very specific application-only program, and everyone knows you have to qualify to get in. And if you get in, you get in. But the biotech program was really a — was set up to screen candidates. And then there were no guarantees you would get into the high school just because you got into the program.

* * *

[55] * * *

Q. It's my understanding that the way the APP program works at the high school level is that anybody who goes to Garfield can take those classes and there really isn't this strict kind of program, the only advantage to it is that you will be automatically assigned to Garfield from a middle school, from whatever middle school that is that houses the APP program.

A. The Washington Middle School is where the APP program is housed. And if you are satisfactorily completing your middle school advanced placements and apply to Garfield, you get into Garfield and you get into the advance placements course. But it's not — as I understand it, it's not open to just anybody.

Appendix U

Q. What I mean, I guess, is not that the APP program itself is open to anybody but that the types of classes that those APP program members take at the high school level are open to any other people who go to that high school that want to take those classes.

A. If there is room in the class. Those who are in the program have preference.

Q. I have a newspaper article, I didn't bring my exhibit books down, but I just want to see if you recall saying this to the press. And if I need to go [56] get my article I'll go get it.

Do you recall saying to The Seattle Times that, "If we get sued on the racial tiebreaker we will lose"?

A. I think I did say that, yeah.

Q. And what did you mean by that?

A. Well, my reading of I-200 was — to me told me we couldn't use race. But I have subsequently rethought that and now don't necessarily agree that we would lose.

Q. Can you explain why you at one time had that understanding and now you don't? And I'm not asking you to tell me about any — the substance of any conversation you had with your attorneys.

A. Well, I — I specifically asked our attorney, not Mike, but Mark, how he interpreted I-200 and its application to the schools. And out of that conversation, he made a valid point that I had not considered.

Q. And when you originally looked at I-200 and had this opinion that the policy violated I-200, what was that based on? And again, if that was —

A. Just a reading of the initiative.

Q. Do you remember what about the initiative led you to believe that the plan violated it?

[57] A. Well, if I remember the initiative properly, it's been a while since I read it, too, that one could not use race as the basis for admissions or contracting, employment, the whole nine yards. You couldn't use race. That was basically what it said. And we were using race.

Q. You were using race for admissions?

A. (Witness nods head.)

Q. Can you give a verbal response?

A. Yes.

* * * *

APPENDIX V — EXCERPTED DEPOSITION UPON ORAL EXAMINATION OF JOSEPH OLCHEFSKE DATED JANUARY 31, 2001*

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

NO. C00-1205 P

PARENTS INVOLVED IN COMMUNITY SCHOOLS,
a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1, a political
subdivision of the State of Washington, et al.,

Defendants.

**DEPOSITION UPON ORAL EXAMINATION
OF
JOSEPH OLCHEFSKE**

10:10 a.m.
January 31, 2001
1501 Fourth Avenue, Suite 2700
Seattle, Washington

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* This document was located in the district court record as Attachment 5 to Korrell Declaration filed 3/8/01.

Appendix V

[Commencing at page 35]

* * *

Q. Did the district give any serious consideration to the adoption of a plan for the assignment of high school students that did not use racial balancing as a factor or goal?

A. I think, generally, the answer to that question is — wait, ask it again. Did we give consideration?

Q. Did you seriously consider adopting a race —

A. I think the general answer to that question is no, because we had already established through the elementary plan and the middle school plan sort of diversity as being one of our key objectives. So I don't remember a significant body of work being done. I mean it's possible informally ideas were floated here or there, but I don't remember any significant staff work being done.

Q. I guess the natural question, then, is why not? If diversity is a goal, why did the district not look to see if that goal could be accomplished without considering the race of students in the assignment plan?

[36] A. When — I certainly feel there is a deep grounding historically within our district to the value of diversity of a student body that has been an ongoing principle that we have reaffirmed at each stage of our development. And when diversity, meaning racial diversity, is part of the educational environment we wanted to create, I think our

view was you took that issue head on and used — you used race as part of the structures you developed.

So I don't know if — I guess I can't answer your question, because I don't know what instruments — you may have something in mind, what instruments we could have considered. But you know, when the issue was race we talked about race.

* * *

[56] * * *

Q. Does the Seattle School District operate a segregated school system?

A. No.

Q. Do you believe it has?

A. No, if you take as the definition of the word "segregated" mandatory precluding and exclusion of people by race, ala, you know, the south in the 50s.

* * *

[57] * * *

Q. The bottom paragraph of this page says, "Based on the foregoing rationale, the Seattle School District's commitment is that no student should be required to attend a racially concentrated school."

A. Uh-huh.

Q. What is a racially concentrated school?

A. A racially concentrated school is a school in which the student body is overwhelmingly one [58] particular racial group.

Q. What does "overwhelmingly" mean? Is there a cutoff beyond which a school is concentrated and before which it's not concentrated?

A. Well, I don't think — the real life answer to your question is no, of course it's not. Ultimately, it's in the eye of the beholder. But you know, our sense here was there has been a history in our country of, you know, getting back to the south in the 50s, of forcing black kids to go to schools with only black kids and white kids to go to school with only white kids, and that's the way it is.

* * *

Q. Are any of Seattle's high schools currently [59] racially concentrated, as you understand that term?

A. Well, as I said earlier, I don't think there is a definition at the lay level of what that means. Clearly through our — through the diversity tiebreaker we take a policy statement, a policy position about bands around which racial concentration is defined. But again, at the end of the day at this statement level, I mean if you're asking me to deal with this statement, this is laying out a statement of beliefs and

rationale. It really is, you know, I would hope a broader concept than the bands that we're talking about in the student assignment.

Q. And I appreciate there can be two different — that a phrase like this can be used in different contexts and have different meanings.

A. Correct.

Q. And this —

A. And ultimately you have to operationalize it.

Q. Which is where I'm getting at now.

A. Yes, I understand.

Q. This commitment that no student should be required to attend a racially concentrated school, as I understand it, is one of the guiding — it's one of [60] the central concepts of the assignment plan, correct?

A. Yeah, one of the small number of principles that are in there, yes.

Q. So it's important for me in this case to understand what that means operationally.

A. Yeah. I mean we certainly have schools like the African-American Academy that by anyone's measure is a racially concentrated school, but we do not require anyone to go there. People chose to go there.

Appendix V

Q. At the high school level, from an operational perspective, just for purposes of the operation of the assignment plan, is a — do you mean by "racially concentrated school" one that falls away from the district's racial balance guidelines of 60/40?

A. Your linking of this phrase, "racially concentrated," to the diversity tiebreaker isn't necessarily a straight line. And I think, again, this is a statement of beliefs. And the tiebreaker — and which I think we do believe in. The tiebreaker is a way of implementing, but also beyond the idea of racial concentration how do you move — you know, rather than simply focus on the avoidance of something bad, I think the diversity [61] tiebreaker also talks about the creation of something good.

And so if you're trying to draw the line from this — this set of avoidance of something bad to being the sole rationale, I think we've missed the point. There is also the creation of something good that I think we have to build into this.

Q. And I don't — I don't question that that's one of the goals that the district is pursuing. All I'm really trying to figure out is what these three words mean from the district's perspective.

A. Yeah, yeah. And as I said, the best place to look at it from a technical standpoint is the diversity tiebreaker. And you know, that is the place where we come the closest to defining it. I don't think we've ever sat down and said, "Define racially concentrated school exactly on point in quantitative terms." I don't think we've ever had that

conversation. The tiebreaker is the closest we've come to dealing with the issue.

Q. Do you know if the Open Choice assignment approach has changed the racial balance of Seattle public high schools from the balance obtained under the Controlled Choice plan the last year or so of its operation?

[62] MR. MADDEN: Just to be clear, by "balance" you mean — "balance" is vague. You mean the band or the numbers?

A. The composition, you're asking the question about the —

Q. (By Mr. Korrell) I'm asking about the composition.

A. Well, I think there is — I don't know if there is a discrete answer to that question, because ultimately I get back to choices. They vary fluid and dynamic reality. And I don't think you can separate out or segregate, no pun intended, what part of changes in racial composition that have occurred in schools were the direct result of the change in the student assignment plan versus which were the result of parent choice. And you don't know the degree to which the change in the plan affected parent choice. So I think —

Q. Without asking you to explain the precise chain of causation —

A. If any.

Q. — if any, can you tell me if the composition is different at the high schools under Open Choice than it was under Controlled Choice?

A. Can I rephrase your question? Because I [63] don't think I can answer the question the way you phrase it.

Q. Okay.

A. If you're asking me is the composition of the student bodies different today than it was a couple of years ago, because it may or may not be under — because of — your question implied the causation.

Q. No, I've specifically exempted causation from my question.

A. Yeah.

Q. I've carved that out. Just look at the snapshot of the —

A. A couple years ago versus now.

Q. Let me finish the question.

A. Sure.

Q. — a snapshot of the distribution of races a couple years ago under the last days of Controlled Choice and look at it under Open Choice. Are they different substantially?

A. I don't know. I mean I'm sure I looked at the data at some point, but I don't recall.

Q. Do you know generally whether the schools are closer to the district's preferred racial balance now than they were then? The high schools.

[64] A. In my inability to give you answers with confidence, it is predicated that I am so much closer to the elementary and the middle school plans than I've been to the high school plans in terms of the data, that, you know, ultimately you're asking me a data question.

I believe, if I remember the data right, schools had become somewhat more — the schools that have high percentages of white kids have increased the percentage with white kids, and the schools that have a high percentage of minority kids have increased the percentage of minority kids. I believe that's what occurred.

Q. Under the Open Choice, the current plan?

A. Over the course of the last couple of years.

Q. By that do you mean since the — since leaving Controlled Choice? Because if you say just over the last couple of years, I'm trying to find out if that trend is something that you think has happened since Controlled Choice was ended —

A. And what I'm saying is —

Q. You don't know?

A. Yeah, I don't know what occurred in the years prior to that. I mean this could be part of a [65] larger trend that existed — because you've got to remember there are — as much as choice is a fluid phenomenon, you also have to remember the demographic profile of neighborhoods is a fluid phenomenon. And we only have to go as far as the Central District to see the fluidity of the residential population.

Q. What's happening in the Central District?

A. It's gentrified.

Q. And by that you mean —

A. Upper-income people. It has historically been an overwhelmingly black neighborhood, and it's becoming much more of a diverse neighborhood, far more white population than we've seen, Dan, probably in your life. And there still is a significant African-American population there, but there is a base of white population there, an Asian population that was inconceivable a decade ago.

Q. Does the district have —

A. So I said that to say, in addition to — that's why I'm — I'm struggling with your question, is that we have the dynamics of choice, we have the dynamics of demographic population on a neighborhood basis, and then we have the plan itself, and then we have the degree to which the plan itself affects choice.

[66] So you know, I think you can't narrowly deal with this issue just based on the plan itself.

Q. Does the district —

A. Well, I'm sorry. Can I add?

Q. Yes.

A. And the confidence with which various populations choose to come to the Seattle School District or not. And to the degree that we increase public confidence, parents that previously would have never considered coming to the Seattle Public School, which tend to be upper income and whiter, we also, during this time period, I think our data supports we've increased parent confidence. So we also don't know what about the population of people applying to the district and what are the fluidity and dynamics of that.

So I think there is — very difficult to answer your question.

Q. Does the district follow or maintain data about the changing demographics of neighborhoods like the Central District that you're referring to?

A. No, it can't, other than anecdotally and as it gets reflected in our enrollment data.

Q. Are there other neighborhoods in the city that you perceive to be gentrifying the way you [67] described the Central District?

A. No. I mean yes. I mean there is — again, I get back to the fluidity in every neighborhood is rapidly changing. And I think Queen Anne is a little bit different than it was 15 years ago, and Belltown is a lot different than it was five years ago. I'm a resident of Belltown.

So you know, the reality of any urban environment is there is tremendous fluidity.

Q. We've discussed the diversity rationale and some of the goals the district seeks to accomplish by its use of race in its assignment plan. Do you know how — do you have a belief as to how those goals are better served by setting the tiebreaker to operate based on the 60 percent minority/40 percent white student population as opposed to overall city population?

A. Ask your question again.

Q. It's a clumsy way of saying why use the district's student population racial balance of —

A. As opposed to aggregate?

Q. Correct, as opposed to any other measure. You could use, I suppose, the measure of the school-aged children aggregate measure, you could use the city-wide population aggregate measure. Why use [68] the 60/40?

A. We clearly felt that a — we're dealing with the students in the world that they inhabit. And therefore, using student-based school-aged population itself versus aggregate

adult population is a far more relevant reality for my daughter and school-aged kids than it is the fact that, you know, there is a lot of white elderly people in this town. And so clearly we wanted to move to a comparison, a reference point of school-aged population.

There is no precise way, because I've tried, to calculate school-aged population, even how many there are in the city of Seattle at any given point in time, much less the racial or any other characteristics. So the only very precise measure, or as precise as we're going to get measure, is school-aged population that chooses to come to Seattle Public Schools. And — period.

Q. How is it that the district's goals, as articulated in the rationale that include its being prepared to be a good citizen in a multi-cultural community, how is that goal better served by using 60/40 rather than the broader community ratio of approximately 25 percent minority/75 percent white?

A. Let's think about the world in which [69] they're going to be citizens. The world in which they're going to be citizens is the population that is their contemporaries. And their contemporaries are school-aged children. And my mother, who is 84 years old, lived in an overwhelmingly white world because the world was overwhelmingly white in her age group. My daughter, who is six years old, lives in a very diverse world because her age group is significantly more diverse than my 84-year-old mother.

So that is a society they're going to inhabit. You know, we shouldn't be preparing kids to be blacksmiths, because

that's not the world they're going to inhabit. We should be preparing kids to live in a technologically, information rich environment, because that's the world they're going to inhabit. They're also going to inhabit a world that is far more racially and culturally diverse than you will ever inhabit in your life or I will in my life.

Q. Can you explain how the district's goals are better accomplished by moving the percentage of minority students in a school like Ballard from 37 percent to 44 percent or in Roosevelt in moving the minority percentage from 45 percent to [70] 49 percent? How do those marginal changes in minority representation in those schools help the district affect its goals?

A. Ultimately, the tiebreaker or a student assignment plan is a blunt instrument. And I accept it as a blunt instrument; that's what it is. It's not — you know, you — you don't have surgical instruments in this world.

Is it moving the right direction? Is it creating opportunities for kids from diverse populations to attend that school? Is it — is it an instrument, blunt though it may be, to serve — to serve that purpose? My answer to the question is yes. It's — it's the best instrument we have, and it — I believe it works to serve that end.

Q. Can you —

A. On the margin, I mean is there something magic between 37 and 44? Again, I don't — you know, it's begging imprecision that doesn't exist in this world.

* * *

Appendix V

[73] * * *

Q. (By Mr. Korrell) The district does something to affect the integration status of the — or the racial balance, I should say, of the oversubscribed schools.

A. Uh-huh.

Q. And your testimony is it does nothing to attempt to adjust the racial balance of the undersubscribed schools.

MR. MADDEN: Object to the characterization.

Q. (By Mr. Korrell) And my question then is why? Which I think is a clear question.

A. Yeah, I got it.

I get back to the student assignment plan is fundamentally a blunt instrument. And it — at the end of the day, the core aspect of the student assignment plan is we're an open choice district. And we like the premise of people being able to choose schools and get in if there is space [74] available. The only place tiebreakers, any of the tiebreakers apply is when there is an oversubscription. And you could ask the same question about the sibling preference, don't we want to create more of a family preference at Cleveland and shouldn't we, you know, force siblings to go to Cleveland, too. I mean each of the tiebreakers you could -- you know, it's not just the race tiebreaker that you could say that about. I think we've made a very conscious choice that the tiebreakers only come into play during those — only in the

context of those schools that are oversubscribed. And that's been a consistent policy statement.

Now, that being said, if this conversation were about things beyond student assignment, we had talked a lot about programmatic changes at those schools to make them more broadly attractive, which frankly has been the product of Ballard, as an example, which was a highly unpopular school in the not-too-distant past. But it's through those programmatic changes there that we've been able to attract a broader population to that school. And that's exactly the efforts at Rainier Beach, Cleveland, West Seattle, Sealth that are going on.

[75] But if your line of questioning is narrowly on the student assignment plan, the core value here is choice.

Q. And my question is not — this last question I asked was not really intended to be limited just to the student assignment plan. I think by now I have a decent understanding of how it works and how the tiebreakers work. But my question was a broader one, which is if the district has this diversity rationale and the goals as set forth in that rationale, why does the district only address it at the oversubscribed schools which are closer to the ideal balance and not focus its efforts to accomplish — not focus its efforts to accomplish diversity at the schools that are farther out of balance?

A. And then I guess I heard a contradiction in your comments, because you were saying you're asking a broader question but then you came back to how should a student assignment plan be implemented in those areas.

Q. I didn't say student assignment plan.

A. And what I'm —

Q. I just want to know the district's efforts. I just want to know why the district doesn't do [76] anything for those schools —

A. But why are you presuming we don't?

Q. Then if you do, tell me what you're doing.

A. International baccalaureate at Ingraham, the info tech academy at Cleveland, the performing arts program at West Seattle, leadership changes at West Seattle High School and Sealth and Rainier Beach, dramatically changing our leadership profile of those schools, commitment of additional energy and resources around high schools. Went out and got the Gates Grant to do school transformation all throughout our district, particularly focusing on high schools.

The programmatic aspects, I mean clearly the choice plan at the end of the day gives the superintendent and gives the school district immediate feedback from parents on a year-to-year basis about what they find attractive and what they don't find attractive. And we use that information to drive our reform and change efforts at individual schools. And there is — I can tell you, as a result of the changing dynamics of choice, I think we've learned that the things Ballard has done in the last four years parents have responded to, and the things Rainier Beach has done in the last four years parents [77] have not responded to. And guess what? We learn from that and we try to replicate.

So your question implied nothing else is going on. And in fact, in the overall scope of things, I spend far more time on those things than I would ever spend on student assignment, because I consider it a blunt instrument. The brain surgery of all this exists in programmatic changes that are tailored to the evolving and constantly changing interest and needs of parents.

Q. What does the district do to advertise to parents the programmatic differences in the various high schools?

A. To answer that question I got to change a word in the question. I think the word "advertise" is a bad word or a narrowly defining word. I think if the intent of your question is communicate to parents — am I taking that as the spirit of your question?

Q. Yes.

A. Okay. Then I think — I think we have a very broad program that we — each year I think we've gotten better at. I think we've come from a place of not being very strong at it. The strongest place is what I call back fence marketing, it's the [78] parent-to-parent contact. And the more you can create happy customers at one school, they talk about their happiness.

I mean I think Ballard is a good example. I think McClure Middle School is another great example. No one wanted to go there four years ago, and I think the change in leadership and change in program today, it's becoming a far more popular school than it was three years ago. And so I think at

the end of the day, the core resources — the core resource of that communication effort is parent satisfaction and having parents be advocates to other parents.

Clearly, my work and John Stanford's work before me, I mean he sort of invented this game plan around the high visibility superintendency and the need to communicate very broadly all around the community of the role of our schools and the sort of cheerleading function of the superintendent and the board. I clearly focus my energy and my communicating efforts around those schools. We've developed in the last couple of years I think a much more sophisticated communications department. And I work very closely to develop, for lack of a better term, marketing materials on a school-by-school [79] basis.

So this is a fairly — and again, in a choice district, this is what you've got to do. I mean you move from a Soviet organizational structure to much more of a capitalist, if I can use that shorthand for the moment. And you've got to make a commitment to be attractive to parents in their ongoing changing and evolving interests.

* * *

[81] * * *

Q. Why did you propose changing the trigger for the operation of the tiebreaker from a ten-percent point deviation from the 60/40 racial balance to a 20-percent point deviation?

Appendix V

A. I guess there is three things I need to say. First is I very much wanted to, and I think we collectively wanted to, to maintain a diversity tiebreaker or some element into the plan that had a very clear direction around diversity.

Second, I wanted to soften its impact. I felt and we collectively felt through our — this iterative process that some softening was important. And the broadening of the band was one part of that softening. The entering grade issue was another one, and the thermostat as opposed to the on/off switch was the third piece of that.

And so I certainly felt —

Q. Let me interrupt you one second. Was Barnhart/Waldman, the elimination of Barnhart/Waldman also a softening effort?

A. No. At least I didn't think of it that way.

Q. I'm sorry, I interrupted you.

A. So my first point was maintain the [82] component. Second, soften its impact. Third, you've got to remember, as superintendent, I am an employee and under contract to seven board members. And this issue is fundamentally their issue, it's their policy issue. And my job is to bring to the table, as a result of this iterative process that I've been talking about, a package, a proposal that gets on the table for them to discuss.

Appendix V

So you know, I think I need to soften the personal ownership to the degree not that I'm walking away from it, I'm just saying part of my job is to get these topics on the table.

* * *

[85] * * *

Q. So you, in 2000, you proposed the change from ten percent to 20 percent, and you proposed eliminating the Barnhart/Waldman processing amendment.

A. Correct.

* * *

[86] * * *

Q. The added text under four, the school board directs you to focus on continuing improvement and quality to all high schools, particularly those five undersubscribed schools, and report to the school board on a regular basis. What is your understanding of why you were to focus particularly on the five undersubscribed schools?

A. At the end of the day, the evil in the middle of the difficulties that we've had this year regarding high school student assignments, or the middle school the year before that, various elementaries at various times along the way — I mean this is simply this year's installment of an ongoing issue of how you be a choice district. But clearly the evil at

the root of it all is ultimately the parent choice results that clearly indicated parents in larger numbers felt some of our schools were very attractive and other schools weren't attractive. Larger numbers over here, smaller numbers over here. And that, as a result, we had long waitlists over here. Regardless of what we did about student [87] assignment at the end of the day, that was just going to — if the choice patterns stayed the same, the only issue we were going to resolve with student assignment was who was going to be angry.

The only way we could get at a net increase in happiness is by increasing the parental attractiveness, which would then have the effect of lowering the waitlists and hopefully eliminating the waitlists at the five more currently more popular schools.

So I think it was an acknowledgement that student assignment was really only one piece of how you resolve this issue.

Q. This sentence we're discussing here does not refer to improving parent perception of high schools, it refers to improving quality at the five undersubscribed schools.

Is it your understanding that there is a quality problem at the five undersubscribed schools?

A. I think there is clearly an attractiveness problem. And attractiveness, in my mind, is a measure that gets at what do parents, in numbers, feel is quality. And as I said earlier, that is ultimately a fluid, a changing, a dynamic phenomenon.

Appendix V

And so there clearly is an issue — and part of that [88] is what is the substance of the program. And then second, what is — how is that substance communicated. And if parents, by going through the choice process, are responding to both what they know — the substance and what they know about it, ultimately it clearly identifies attractiveness issues.

And so I think quality — I struggle when you ask me the question the way you did, because ultimately there are many people that chose Ingraham, there are many people that chose West Seattle, there are many people that chose Sealth, Rainier Beach, Cleveland. All of those schools have been chosen by parents. So obviously they, those particular parents see them as quality choices, because they had other choices. There is a question of is there broad enough numbers and is the nature of that program perceived as quality broadly.

Q. And I guess the reason I focused on the word "quality" is that the direction to you is for you to focus on quality improvements —

A. Sure.

Q. — not just perception improvements.

A. And I guess when I say the word "attractiveness," I think it captures both of those [89] premises.

* * *

The second sentence here says, "After review and 2 years experience, there was not strong evidence that utilizing a

10% ten-percent band provided a materially better educational experience than would a 20%."

What formed the basis of this observation, do you know, that the plus or minus ten-percent band did not provide a materially better educational experience than would a band of 20 percent?

A. Well, I think that gets at the sort of blunt instrument aspect that you talked about earlier, and that ultimately in any student assignment process you're balancing a number of competing interests; diversity clearly being one of them, first choice being another, and close to home being another, et cetera, et cetera.

And so I think this gets at that idea, that widening the band, what I called softening earlier, could get at improved — could — we could make that [90] change without having a negative impact, given the other competing interests that are involved.

* * *

[91] * * *

Q. Who would know about the operation of the Ballard biotech program?

A. The principal at Ballard.

Q. Is there anybody at the district level that would pay attention to the specific requirements imposed by the principal at Ballard?

Appendix V

A. It's likely the person who supervises the high school principal, Sharon Green, would know that. But from — you know, we have a district that is based on individual program planning and entrepreneurship at the local level. And people are creating programs all the time. And you know, from a student assignment standpoint it's irrelevant.

* * * *

APPENDIX W — EXCERPTED DEPOSITION UPON ORAL EXAMINATION OF MICHAEL ROYCE PRESTON DATED JANUARY 26, 2001*

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NO. C00-1205 P

PARENTS INVOLVED IN COMMUNITY SCHOOLS,
a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1,
a political subdivision of the) State of Washington, et al.,

Defendants.

DEPOSITION UPON ORAL EXAMINATION
OF
MICHAEL ROYCE PRESTON

11:00 a.m.
January 26, 2001
1501 Fourth Avenue, Suite 2700
Seattle, Washington

* This document was located in the district court record as Attachment 6 to Korrell Declaration filed 3/8/01.

Appendix W

[Commencing at page 33]

* * *

[Q.] The very last bullet here under "Controlled Choice" on the second page says, "No more than 58% enrollment of any ethnic minority group."

What does that refer to?

A. Under the Seattle plan and under most of the Controlled Choice years, you not only had the plus or minus 20 percent or 25 percent, if this document is correct, but you also had a caveat for any single ethnic group. That was usually meant to be ethnic minority group. And so if a school were in compliance with the definition of plus or minus [34] 25 percent but 100 percent of their minorities were of one ethnic group, then they still would be out of compliance. That's sort of what it meant.

So it was — the definitions that have been used by the courts and by school districts are, in my opinion, sort of racist. And the reason that they are is because you sort of make it minorities lumped together versus whites lumped together. And that has the assumption that Alan Sugiyama and myself have more in common than Don Nielsen and myself, or Don Nielsen and Alan.

Q. You think that assumption is problematic?

A. I think it's asinine, it's not just problematic.

Q. That assumption appears to underlie the current district plan, doesn't it?

A. Well, I don't know.

Q. Does the current district plan make any differentiation in assignment among various minority groups?

A. Well, let's just say that the assumptions of commonality among minorities is still prevalent in this country. That's why we have the terminology "minorities." And the similarities between the Chinese New Year and the Juneteenth are pretty close, [35] right?

Q. Why, then, doesn't the district track and attempt to accomplish some sort of racial balance that considers the various ethnic minorities that are currently considered just minority?

A. I don't know.

Q. Are those numbers —

A. It's one of things that, even though I've been harping on it periodically for almost 20 years now, that most of the time people can't hear it. It's just that group think takes you right back to minorities and whites. And even in the Asian category, Chinese, Japanese, Korean, Filipino, Hawaiian, Samoan, although they're called Pacific Islanders now, they sort of separated out a little bit, but Laotian, Cambodian, Vietnamese, all Asian, right? Same culture? No.

That speaks for itself, for people who can think.

* * * *

APPENDIX X — EXCERPTED DEPOSITION UPON ORAL EXAMINATION OF BARBARA SCHAAD-LAMPHERE DATED JANUARY 25, 2001*

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

NO. C00-1205 P

PARENTS INVOLVED IN COMMUNITY SCHOOLS,
a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1,
a political subdivision of the State of Washington, et al.,

Defendants.

**DEPOSITION UPON ORAL EXAMINATION
OF
BARBARA SCHAAD-LAMPHERE**

9:35 a.m.
January 19, 2001
1501 Fourth Avenue, Suite 2700
Seattle, Washington

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* This document was located in the district court record as Attachment 7 to Korrell Declaration filed 3/8/01.

Appendix X

[Commencing at page 74]

* * *

Q. Are you aware of any study or test that was [75] done that would tell you, one way or the other, whether the racial composition of a school would be more or less diverse by the school district's standards using poverty as opposed to race? 5

A. I don't recall a study, no.

* * *

AFTERNOON SESSION
January 19, 2001
2:05 p.m.

EXAMINATION

* * *

[82] * * *

Q. And just so we're clear, your testimony was that you don't recall that approach being discussed as an option to accomplish diversity at the high school level, is that right?

A. That's correct.

Q. Do you remember the district's considering using a strict lottery as a method for accomplishing diversity at the oversubscribed schools in place of tiebreakers?

A. I know that I've discussed that with people, but I don't believe we had a board discussion around that.

Q. Do you believe that would accomplish the diversity goals that the district has for the high school?

A. No.

Q. Why not?

A. Because lottery, if you throw a dice 100 [83] times, you can get 100 different — because of probabilities, the law of probabilities.

Q. And I am bad on statistics, but it seems to me that if you have a school like Ballard, for instance, that many students want to go to, more students than the school can accommodate, that if those students are coming from all around — are requesting to come to that school from all around the city and you use a lottery, you're likely to get a composition in that school that reflects the composition of the people around the city, wouldn't it?

MS. JAMES: Object to the form; compound, argumentative.

MR. KORRELL: It is compound, it's not argumentative.

Q. (By Mr. Korrell) If you understand the question, you can answer it.

A. Well, you stated something that is your opinion.

Q. Well, I'm asking do you agree with that opinion?

A. No, I do not.

Q. Why do you think that using a lottery would not accomplish a student body that is — whose [84] diversity roughly reflects a diversity of your overall student body in the school district?

A. Well, it depends on what kids are applying for the school. If the applicants are overwhelmingly majority and you have lottery, then your lottery — the pool of your lottery kids are going to be overwhelmingly majority. We have a diversity goal. We're trying to hit a diversity target.

Q. The school district knows, correct, the racial breakdown of the people who seek to go to the schools in the district, right?

A. Correct.

Q. Do you know if anyone ever looked at what the diversity result would be if you had just used a lottery for —

A. I don't know if anyone has looked at that, no.

Q. You're unaware of any consideration of that, is that correct?

A. I don't know that it was looked at in terms of what would the makeup of our schools look like.

Appendix X

Q. Do you recall any board consideration of simply dropping the race tiebreaker down to a lower priority on the tiebreaker list as a possible way to accomplish the diversity and balance it with other [85] goals?

A. Yes, that was discussed.

Q. And why was that rejected?

A. Because the majority of the board members felt that it would not result in enough diverse schools.

Q. Do you know if any study or test run was done on that alternative that gave you information about what the diversity result would be?

A. I don't recall.

* * *

Q. (By Mr. Korrell) Another couple questions in that same vein. From my review of the board meeting minutes that the school district has provided in discovery, it appears that school district staff or Superintendent Olchefske have recommended several times since 1996 to widen the band for triggering the diversity tiebreaker to 20 percentage points deviation from the preferred racial balance, is that correct?

A. You say you reviewed the records. I can believe that's correct. I don't have distinct recollection.

Appendix X

[86] Q. Do you have a general recollection that —

A. General recollection that yes, it's been introduced more than just this year.

Q. And why did the school board reject that recommendation?

A. To widen the band to plus or minus 20 percent?

Q. Yes.

A. I believe the majority of the board felt that in balancing all the pieces that we have in the assignment puzzle that that would not give diversity the proper weight that we felt was right for our school district.

[88] * * *

Q. Okay. When you refer to the goal being increasing diversity, what do you mean by that?

A. I mean that by mixing majority students and minority students you create a diverse environment in which kids learn.

Q. What does the school district mean when it identifies the goal of reducing racial isolation?

A. I would imagine it's the opportunity for a child to choose a diverse school over one where there is a predominance of majority students or minority students.

Appendix X

Q. What's your understanding of when a school suffers from racial isolation?

A. I don't have a definition for that.

* * *

[89] * * *

Q. Do you believe that the Seattle School [90] system has ever operated a two-tract system or a segregated system?

A. No, I don't believe so. Well, I mean I have to preface that. I can only say what my experience has been either when I was a student or as a board member. I can't really — there was a huge hunk of time I didn't know anything about Seattle Public Schools.

* * *

[132] * * *

Q. Do you remember any discussions of a proposal made by the Urban League's ad hoc work group?

A. Yes.

Q. Do you remember considering the detailed proposal that the Urban League made?

A. I recall reading their proposal as it was addressed to the board. I recall believing myself that it was essentially a regional high school plan.

Appendix X

Q. If there was any discussion of the Urban League plan in the regular legislative meetings, would that be reflected in the board meeting minutes?

A. Yes.

Q. From my review of those minutes, it appears there was never any regular legislative session discussion of that plan. Is that consistent with your memory?

A. That could be the case, but I would explain that by saying that essentially, as I stated before, I believe the Urban League plan was essentially a ten region plan. And so the ten region plan we had as proposed by Director Peterson stood as a good proxy [133] for what the Urban League proposed.

(Marked Deposition Exhibit No. 7.)

Q. (By Mr. Korrell) I've handed you what's been marked Exhibit 7 to these depositions. And it is a printout, though unsigned, of a letter directed to you and the school board with an attachment, titled, "Ad-Hoc Work Group Report on High School Assignment practices."

Do you recognize this?

A. Yep.

Q. This was produced by the school district in response to PICS's discovery requests during the course of this litigation. Is it your testimony that you remembered reviewing this?

A. Yes.

Q. And other than your recollection that it was similar to the ten region plan proposed by Director Peterson, do you have any recollection of why this plan was not adopted?

A. Well, as a board member, I looked at this as input to the board from an interested outside party, much as we had spent many evenings and hours gaining input from our parents. I viewed this document and weighed it along with all of the other input that I got.

[134] Q. From my review of the meeting minutes, it appears that no one ever made a motion to amend Superintendent Olchefske's plan and to use this in place of it. Is that what you recall?

A. Right.

Q. Do you remember any debate or discussion in any of the legislative sessions about this proposal?

A. Not that I can recall, because some of the pieces, for myself, some of the pieces of the proposal addressed the assignment system, the assignment plan, while some of them were thoughts that are adjunct to our assignment plan.

Q. Do you know if anyone ran any tests or sensitivity studies or anything like that to determine what effect the Urban League plan would have on the school's — or the school district's racial balancing efforts?

A. I don't know.

Q. Would you turn to page SPS 2069? Its numbered as page two of the ad hoc work group report.

A. Okey-doke.

Q. Up at the top, first paragraph under the heading, "The Need for Quality," would you read that paragraph? Just not out loud, but just read it.

That first paragraph refers, in large [135] measure, to uneven quality and value of education and parental discontent with the assignment process based on perceptions about different quality.

Are you aware that there is a perception that there are good high schools and not so good high schools in the Seattle School District's high school system?

A. Really? Sorry. Yes. I felt the need for levity.

Q. It's all right, you can have that.

What's your understanding of what that perception is based on?

A. As a parent of school-aged kids, I'm very well aware of the perceptions that parents and kids have of schools. To some degree, to a large degree, it's based on the academic performance of kids in those schools. To a smaller extent, it's based on the talk that goes around about those schools.

Q. Do you think those perceptions are reasonable?

MS. JAMES: Object to the form; vague, speculative, calls for a legal conclusion.

A. I wouldn't say that I could say whether people's perceptions are reasonable or not. Perceptions are what folks have. Do I think that [136] sometimes there — well, I won't even go there. You know, people have perceptions. And in my — in my business, perceptions are reality until they change.

Q. How does the school board go about evaluating the quality of the education available at its high schools?

A. We have a number of different quality indicators that our staff collect for us.

Q. What are those?

A. Well, I can't give you an exhaustive list, but I will give you, as I understand it, some of the things we look at, which include test scores on standardized norm referenced tests, test scores on criterion referenced tests.

Q. What's the difference between those two kinds of tests?

A. I'd have to send you to school to learn that.

Q. Can you give me a quick thumbnail sketch?

Appendix X

A. In a norm referenced standardized test, the reason we call it "norm referenced" is kids' scores are forced into a bell curve, so that there are always winners and losers, or tails of the bell.

Q. Much like my law school exams.

A. There you go, you would be familiar with [137] those.

In criterion referenced tests, we ask kids often more open-ended, often not multiple choice questions that we try to determine what they — what they know and what they're able to do. So you could have everyone with scores that are passing. Wouldn't that be a dream in law school?

Q. So two kinds of test scores.

A. So test scores, dropout data, attendance data, discipline data, GPA average. I think our administrators use seven to nine different indicators when they look at schools.

Q. Do you look at GPA first year in college?

A. That's not typically something that we look at, no, but it is available in published — typically in newspapers.

Q. Is that something parents look at, to your understanding?

A. I don't imagine that that particular data is widely enough available that parents would use it.

Q. It's my understanding that the University of Washington discounts or puts a premium on the GPA from different schools around the state. Are you familiar with that?

A. Yes.

[138] Q. Do you consider that in determining the education made available at these schools?

MS. JAMES: Object to the form.

A. I don't know that we consider it. I have seen that.

Q. (By Mr. Korrell) Does the school district keep track of, on a school-by-school basis, the percentage of students who take SAT, for instance?

A. Yes.

Q. If a school has more students taking the SAT, is that an indicator of higher quality, in the district's —

A. I would imagine. I mean more to your line of questioning, if I might, are we talking about what the district gathers? We were talking about parental perceptions. Did we change the topic?

Q. Actually, you were listing for me a list of the quality indicators, that may not be your word, that the district uses.

A. Okay, so we're on the district.

Q. We were. And then I thought we ran out of those.

A. That's okay, I just wanted to, between you and me, understand that we were both talking about the same thing.

[139] Q. Yes, and I'm glad you made that clarification.

Is there anything else that you remember that the district looks to or that the school board looks to in tracking quality of the schools?

A. Not that I can recall, but I believe there are many more than what I stated.

Q. Is there a document that those — that list of criteria would be contained in?

A. Probably.

Q. You know what it's called or where I would find it?

A. I would — we have to do annual report cards for the schools. Maybe it's in there.

Q. What are — what are these annual report cards?

A. A state mandated report.

Q. What information is contained on them, do you know? All of these?

A. Yes.

Q. And then I asked, after we exhausted what I thought was exhausting your recollection on those issues, I asked if the school district tracked the percentage of students who take the SAT exam.

A. I know that we track the numbers of kids [140] who take SAT.

Q. Is that an indicator of the quality of the education at that school?

A. I don't know if that's used by our administrators in terms of evaluating the quality of a school or not.

Q. If one school had a high percentage of people or a high number of people taking the SATs and another one had a much lower one, does that indicate to you a difference in the quality of the education available at those two schools?

A. I would also look at what the SAT scores are.

Q. Does a combination of those two factors give you an idea of the quality of education at those schools?

A. I would say so, yes.

* * *

Appendix X

[143] * * *

Q. (By Mr. Korrell) Handing you what's been marked as Exhibit No. 9 to these depositions, that is a document that my office has created, I suspect Katie here created it, that summarizes the data contained in the first two pages of this Exhibit 8 that I handed you. And according to both this summary and this Exhibit 8, the average SAT score in [144] 2000 for Garfield was 1,208.

A. Yeah, combined we call it.

Q. Right, the combined score was 1,208, which exceeds the Washington average by 154 points. Is that consistent with your understanding of the test scores at Garfield?

A. I have no prior understanding of the test scores at Garfield, but it would be consistent of — with my perception of Garfield kids doing very well on the SAT.

Q. Roosevelt, similarly, on the two charts, it's indicated their combined score is 1,088, 34 points above the Washington average. Is that consistent with your understanding of the performance of Roosevelt students?

A. It would be consistent with my perception that Roosevelt students do well on the SAT.

Q. And then if you look at the bottom there is a chart, Exhibit 9, or you can find it on the first two pages of Exhibit 8, Cleveland combined score is 838, 216 points below the state average, correct?

A. That's what the chart says.

MS. JAMES: Object to the form.

Q. (By Mr. Korrell) Is that consistent with your general understanding of how students at [145] Cleveland perform on the SATs?

A. I really hadn't come to an understanding of how Cleveland kids might perform, but I would not think that that's out of line.

Q. Do you think it's reasonable for parents, in evaluating the quality of the schools available in the city, to look at statistics like this and decide that their children would get better educations at schools like Garfield and Roosevelt over Rainier Beach and Cleveland?

A. I think some parents do take this into account.

Q. Do you think that's reasonable?

A. Yeah.

* * *

Q. (By Mr. Korrell) In tracking the quality of the schools, does the school board take a look at the percentage of people who take or pass advanced placement exams?

[146] A. We have that data.

Q. Is that something that you remember looking at in evaluating the performance of the schools?

A. I recall seeing that data. I don't recall using it to evaluate anything.

Q. Is the Iowa Basic Skills Test one of the standardized tests that you referred to when you said that you look at performance on standardized tests to evaluate school performance?

A. I believe that the Iowa Test of Basic Skills is given in elementary and middle school. And something similar is given in high school. I think it's called the ITED, Iowa Test of Educational D.

Q. There is another Iowa test given to high school students?

A. I think it is an Iowa test, correct.

Q. What's so magic about Iowa?

A. I have no idea.

Q. I go there a lot lately for work, and I don't see the magic.

A. I know.

Q. Is there an Iowa test that is used in the standardized test tracking?

A. Yes. I believe it's given in eleventh grade.

Appendix X

[147] Q. Do you also look at the Washington state standards test? I think it's frequently called WASL.

A. Washington Assessment of Student Learning, yes.

Q. And you said you looked at discipline rate. What is included in evaluating the discipline history of the school?

A. Well, once again, I don't know the specifics, but I imagine suspensions, expulsions would be included.

Q. Does the school district set specific standards that the schools need to meet with respect to these criteria that you've identified?

A. Well, long term we will have a situation where all children need to pass the tenth grade, Washington Assessment of Student Learning in four areas in order to get a diploma. That is something that's a goal that we have to face, otherwise we do not have parameters around those other indicators.

Q. What are these annual report cards used for, do you know?

A. As a parent I would say that people look at them in order to assess schools for their children.

Q. You said you're required to submit them to the state?

[148] A. I believe it's a state requirement that every school has them, has an annual school report.

Q. So are they maintained at the district or are they sent to the state board of education? What happens to these report cards?

A. I don't know their distribution. I know that I have seen a set, one for every school.

Q. What kind of grades are on the cards, do you know?

A. Once again, they're more the indicators. There is some raw demographics, there is test score data, test score data compared to state test score data. I believe there is some discipline data.

Q. Is there an A, an overall grade, A, B, C?

A. No. No.

Q. Do you believe when you take into consideration these factors, these performance criteria that we've discussed that all ten of Seattle's public high schools provide the same quality of education to Seattle students?

A. No.

MS. JAMES: Object to the form; vague.

THE WITNESS: Sorry, I'll shut up. Kick me, I'll try to take a breath.

Q. (By Mr. Korrell) Are there some that you [149] feel are not providing a quality education and others that you feel are?

MS. JAMES: Same objection.

A. I'd like to answer as a parent. There is some schools that I think better suit the needs of my kids than others. I make that judgment based on partially the quality — the data.

Q. (By Mr. Korrell) Is that behind your choice of Garfield as opposed to West Seattle?

A. That's one of the issues behind my choice.

Q. As the president of the school board, are you concerned that some of the ten schools under your supervision, for lack of a better word, are failing to provide the kind of quality education that you think all the students in Seattle are entitled to get?

MS. JAMES: Same objection.

A. I feel that we need to — somehow we're going to need to — we are going to need to assure that all kids reach high levels of education. You have to take kids also where they start. But yeah, I would not dispute that there is uneven quality in our high schools.

* * *

[155] * * *

Q. Apart from those differences, are there — are there curriculum or program differences at the ten high schools, among the ten high schools?

A. Yes, there are program differences among them.

Q. Can you tell me what those are?

A. Well, I can't articulate them all, but some schools focus on a traditional college preparatory curriculum.

Q. Which schools do that?

A. I would say Garfield and Roosevelt, to name two.

Q. Are there others that you're aware of?

A. Well, one of the only other things that comes to mind right now is Cleveland is currently engaged in a strong technical component for their kids, which is a different program emphasis.

Q. What do you mean by a "technical component"?

[156] A. Well, I wish I could be a little bit more articulate on that.

I believe that they have — are working with independent companies to help their children gain technical expertise, both in hardware, software and applications.

Q. So it's a computer —

A. Yes, computer —

Q. Computer technology?

A. Right, exactly. Thank you.

Appendix X

Q. We're already discussed at some length the Ballard biotech program, right?

A. Currently, yes.

Q. Are there plans to expand that?

A. I have heard, from time to time, the desire to expand it. I don't know the status of the plans to expand it to different high schools.

Q. Are you aware that as part of that program students participate or can participate in internships with biotech firms in the region?

A. Yeah, I'm aware of that.

Q. Are there other high school programs in the district that give students the opportunity to participate in internships?

A. Oh, many.

[157] Q. What are those at the high school level?

A. Right. I can't articulate them all, but it's an emphasis in almost every high school. We have, for example, in some of our high schools academy of finance, an academy of finance, or spread throughout the district academies of finance, where kids learn about the finance world and then have opportunities for internships. We have an academy of sports marketing at Sealth High School where kids learn

about sports marketing and then are able to participate in internships in that field. The same would be true of an academy I think of — it's called something like academy of travel and tourism.

Q. Where is that?

A. There may be one at Sealth. I think there is one at Rainier Beach. I can't be certain exactly where they all are.

Q. I've seen reference to a teaching academy.

A. Right, I think there is one of those at Franklin.

Q. What does that involve?

A. Preparing kids to examine fields in education, employment and education.

* * * *

APPENDIX Y — EXCERPTED TELEPHONIC DEPOSITION UPON ORAL EXAMINATION OF WILLIAM T. TRENT, PH.D. DATED FEBRUARY 2, 2001*

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

NO. C00-1205 P

PARENTS INVOLVED IN COMMUNITY SCHOOLS,
a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1,
a political subdivision of the State of Washington, et al.,

Defendants.

**TELEPHONIC DEPOSITION UPON ORAL EXAMINATION
OF
WILLIAM T. TRENT, PH.D.**

12:05 p.m.
February 2, 2001
1501 Fourth Avenue, Suite 2700
Seattle, Washington

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* This document was located in the district court record as Attachment Y to Korrell Declaration filed 3/8/01.

Appendix Y

[Commencing at page 49]

Q. So is there a certain percentage that you would venture to say, a range of percentage that would be diverse?

A. Well, diversity is diversity. I mean diversity captures the presence of multiple categories. The meaning of diversity that we most wanted to capture, in terms of an effective learning environment, is one in which students are not made to feel peculiar or excluded as a consequence of the differences that they represent.

I think in a prior case, it may very well have been in Wessmann, when asked about what kinds of numbers make a difference, I didn't see a — I did not cite a particular number and I do not cite particular numbers. I don't think anyone in the literature cites a specific number to capture diversity, but rather we talked about the quality of the environment as it pertains to learning. And I think the phrase I use, we would have sufficient numbers so as to avoid students feeling any kind of specter of exceptionality. I think the thing that makes students uncomfortable in the learning environment is when there is the kind of exceptionality that's a distraction to their learning.

[50] Q. So for instance, in the kind of hypothetical that I posed earlier of the school that was 20 percent white, would you — would you say that anyone in that school would have felt that exceptionality?

A. There is no way of knowing. I mean one would have to examine and explore and understand how that context

operates. You could have two different educational facilities identically composed, but the nature and quality of the learning experience within the two would depend on how the educators and adults in those two contexts crafted the educational experience so as to take advantage of the diversity that was present. I mean it's not simply a matter of numbers.

* * *

[54] * * *

A. Well, again, when you — when you look at the tradition in terms of the desegregation work that's been done, you go back to the 50s and 60s and the work in this area, and you see that traditionally, the courts have responded to schools being racially identifiable and high minority concentration when they're in excess of 50 percent black or 50 percent Hispanic.

Now, that is a tradition not of which we come, in terms of the racial composition of the school, which tends to suggest that it will not benefit from the access to quality that majority schools, majority white schools typically enjoy in terms of resource allocation, teacher quality, as indicated by several different measures, and so on, the availability of courses, those kind of [55] experiences, when schools tend to exceed the greater than 50 percent black, not necessarily greater than 50 percent minority.

That can be misleading, especially when you're looking at places like either Seattle or San Francisco. There you have a situation where the tradition with regard to specific Asian

populations, as well as whites, you have a context that still tends to work like most majority white schools operate even though in some schools you may have a majority — you may not have a majority of — a 50 percent plurality of any particular category of students but you may have schools that may be 30 percent Japanese and 25 percent white, and it still has that majority context feel to it or performance characteristic to it in terms of its benefit from the resource allocation decisions of the school board and so on.

So you would — you would be concerned about schools that get to the point of being 80 percent minority, depending on the composition of that minority, but I do think you have to look at the composition of that minority in terms of understanding the extent to which that school is likely to be beneficiary of the kinds of educational [56] resources and to be — and to have — to be in possession of the indices of quality that we would expect — that we would aspire to our schools having for all students.

Q. So it sounds like a lot of it depends on almost a case-by-case analysis.

A. Well, I mean because of — because minority is not a monolithic thing, one doesn't benefit from simply saying minority, because a place that's 80 percent minority and the place next door is 80 percent minority, they can be vastly different places depending on the composition of that student body when you begin to talk about specific race ethnic categories.

Appendix Y

Q. And so they can have vastly different effects on the educational experience and benefits?

A. They can have different educational outcomes for its students, yes.

* * *

[94] * * *

Q. (By Ms. Loppnow) We were talking right before we took a break about whether or not there were studies that you knew of that had said that desegregation didn't increase or had a negative effect on test scores. And you said it was important that diversity be done right and desegregation be done right.

A. That desegregation be done well.

Q. Can you explain —

A. That we be concerned about the process.

Q. Can you explain what you mean by that?

A. Yes. We have demonstrated that we can desegregate — early on, I said that early on the research indicated that it was — some of the benefits of desegregated schooling are greater, are more likely to be achieved when you take into consideration the socioeconomic mix of the school, also, that mixing poor minority with more white children did not necessarily increase the likelihood that the school was going

to secure better access to [95] resources, better access to better teachers and so on, so that it is important to take into consideration the economic mix of the school as you desegregate.

Secondly, when we desegregate we also have to be concerned that we are not satisfied simply to desegregate the building. There are resegregation processes that take place such that within a school you could still get racially identifiable classes such that your less prestigious courses are still predominantly minority and your more highly prestigious, highly-valued courses remain predominantly white and/or Japanese or Chinese, depending on the school district that you're in. So you do have to watch for resegregation factors.

You also have to prepare the receiving schools. Actually, you prepare the adults in the educational setting to engage in the process of desegregation. Some of the research clearly shows that professional development in the form of equipping teachers with ways to become more multi-culturally competent are important. As a matter of fact, one of the local — not local, but one of your resident scholars there in the state of Washington is James Spikes, who is internationally [96] known for his research on multi-cultural educations and the preparation of teachers for cross-cultural competency.

So those are important things to do such that teachers are given assistance with preparing themselves to be able to engage in much more diverse client population, particularly as the schools become even more diverse or as the school district is about to undergo desegregation.

So at least those things are things that I think need to be taken into consideration in terms of doing it well.

Q. Some of the studies that you provided talk about creating a learning environment where there is status leveling.

A. Yes.

Q. Can you explain what that is?

A. Well, the status leveling isn't intended to suggest that we want to bring anyone else's status down, but what the research really talks about is preparing the adults in the context, the authorities in the context that you're desegregating to treat all of the students with equal status and to behave in a way that communicates that they endorse and approve the desegregation or the increasing diversity of the [97] school. Those are important things to do.

Students like young children are very sensitive to adult approval. And when the adults in the situation act in ways to suggest either that they favor one group of students over another or that they do not support the impending or the growing amount of diversity or desegregation, then it delivers a message that suggests that they are not likely to treat students fairly.

Recent research, a study that was published, I forget the authors of the study, "What Matters Most in Teaching," the report indicated that one of the most important attributes of classroom treatment is that students be — students perceive themselves as being treated fairly and evenhandedly, that that has to be a characteristic of a good learning environment.

Some of the evidence on the contrary to that is that we see that sometimes, when we look at the reasons why students are suspended or disciplined, that we — we see two things. We see action taken by race and ethnicity, and we occasionally see that the reasons why — we have seen in the research the reasons why students of color or minority students, black and Latino, are disciplined [98] are sometimes for more subjective reasons, and that the penalties tend to be more harsh for black and Latino students compared to their white fellow students.

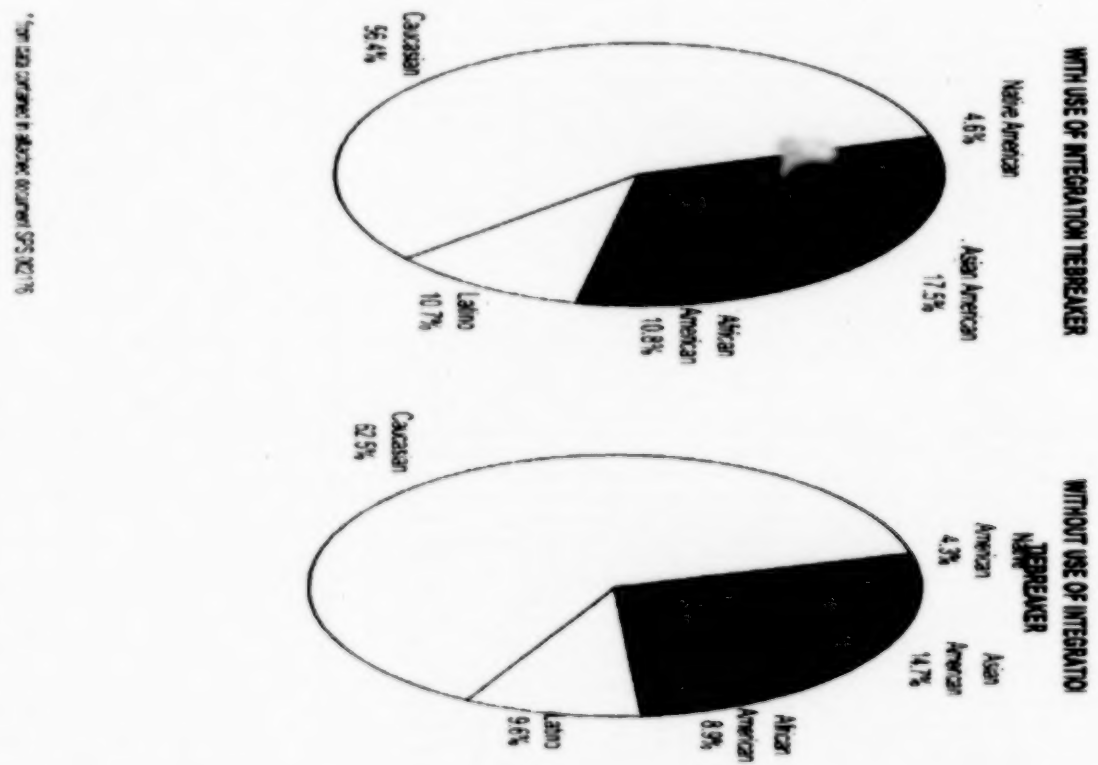
Those are conditions that are unfair and do not suggest that the students are perceived as having equal status.

Q. So it's — it's not enough to get the — some of the benefits that you've listed in your report and talked about here just to put all the students in one school together, you have to make these preparations with teachers and the learning environment, is that right?

A. If you — yes. It's not simply sufficient to rearrange the furniture, you have to, in fact, prepare people and treat it in a way that gives you the greatest likelihood of reaping the rewards that can come from having a richly diverse student population in the school or in a classroom.

* * * *

APPENDIX Z — 2000-01 ENROLLMENT BY RACE IN OVERSUBSCRIBED HIGH SCHOOLS*



* This document was located in the district court record as Attachment 22 to Korrell Declaration filed 2/16/01.

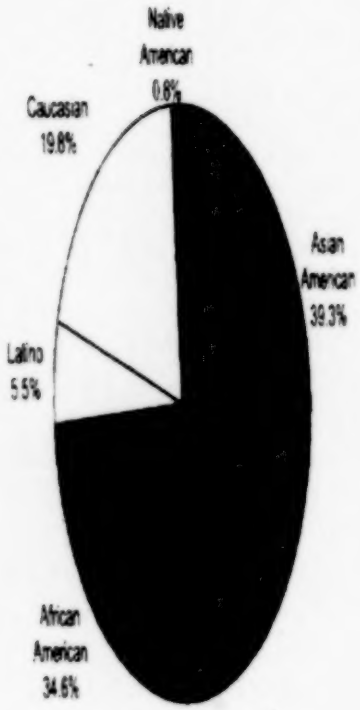
Appendix Z

Racial Breakdown of Student Assignments
in Oversubscribed Seattle School District High Schools 2000-01*

FRANKLIN

WITH USE OF INTEGRATION TIEBREAKER

WITHOUT USE OF INTEGRATION TIEBREAKER

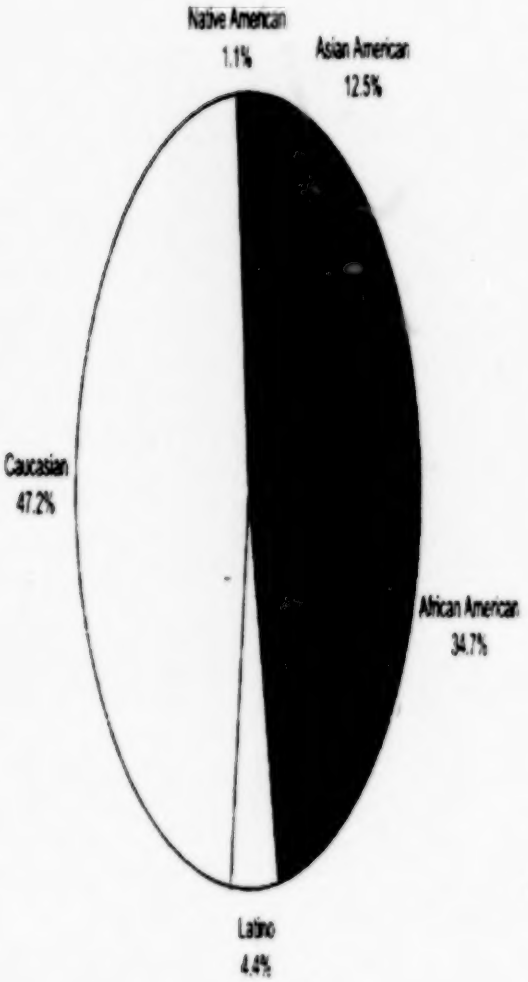


* from data contained in attached document SPS 6/2/177

Appendix Z

Racial Breakdown of Student Assignments
in Oversubscribed Seattle School District High Schools 2000-01*

GARFIELD
(oversubscribed, but "neutral", so no race-based assignments)

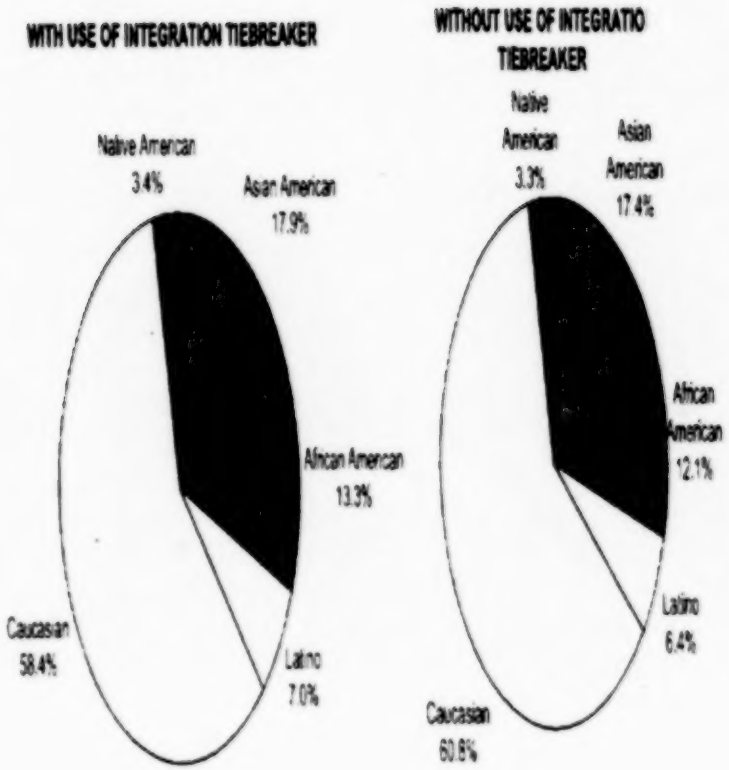


* from data contained in attached document PIC 000326

Appendix Z

Racial Breakdown of Student Assignments In
Oversubscribed Seattle School District High Schools 2000-01*

NATHAN HALE



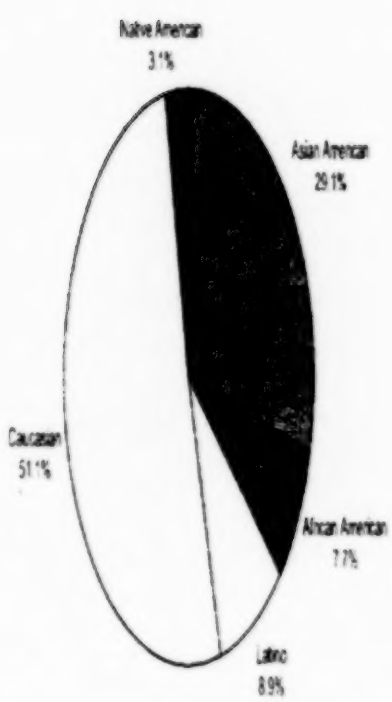
* from data contained in attached document SPS 002177

Appendix N

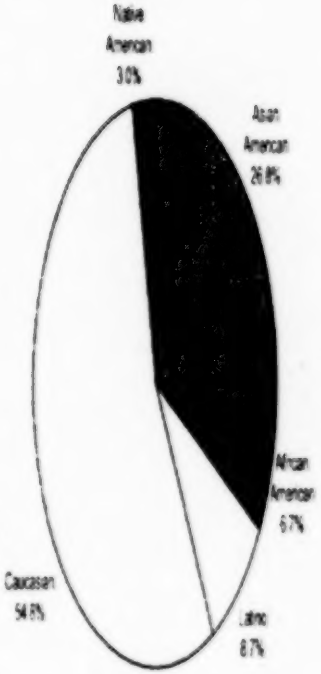
Racial Breakdown of Student Assignments In Oversubscribed Seattle School District High Schools 2000-01*

ROOSEVELT

WITH USE OF INTEGRATION TIEBREAKER

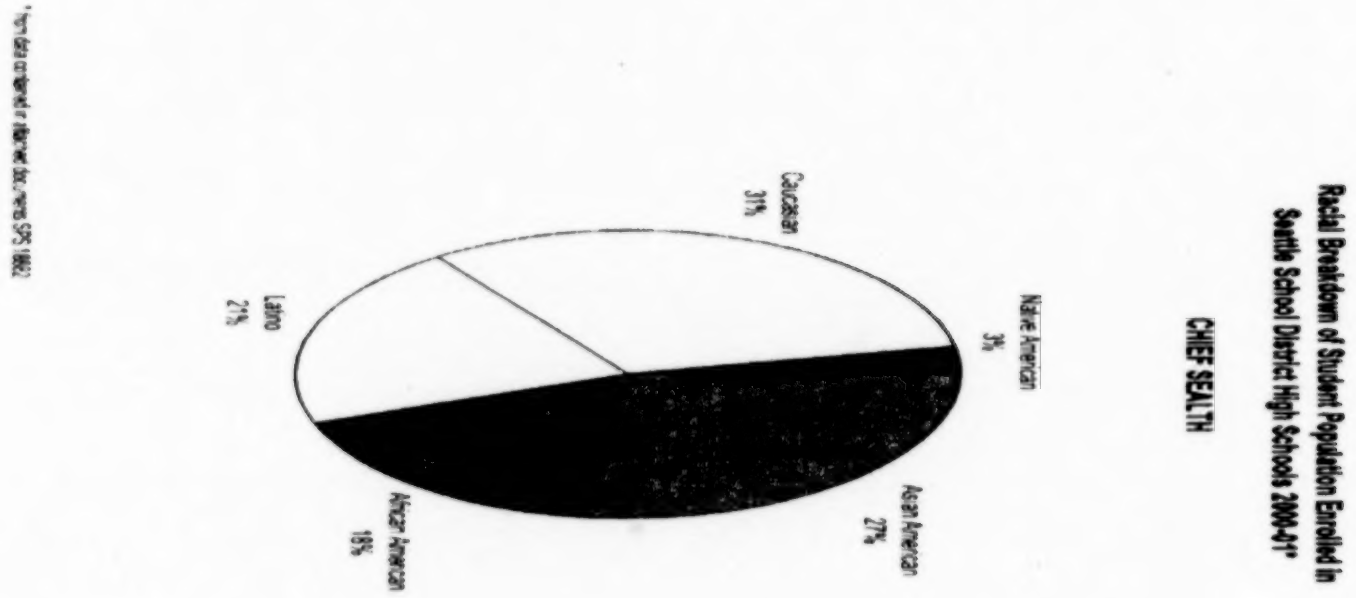


WITHOUT USE OF INTEGRATIO TIEBREAKER



* from data contained in attached document SPS 302176

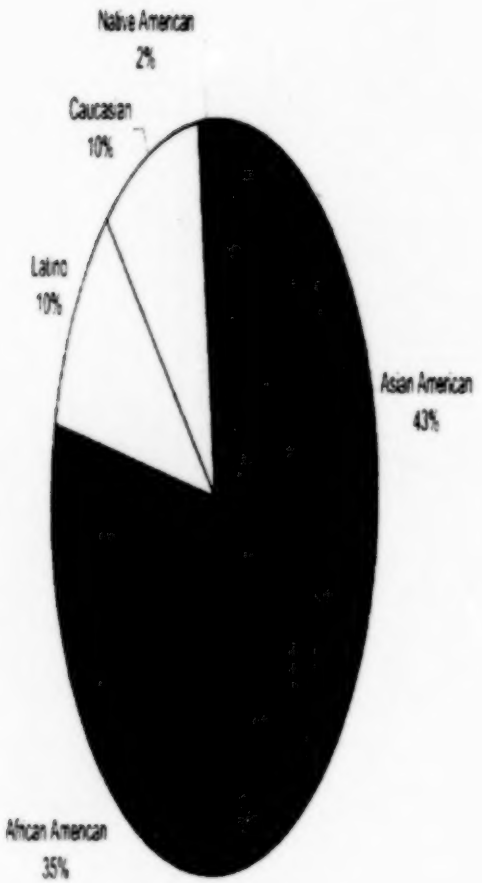
APPENDIX AA — 2000-01 ENROLLMENT BY RACE IN UNDERSUBSCRIBED HIGH SCHOOLS*



* This document was located in the district court record as Attachment 1 to Korrell Declaration filed 3/5/01.

Racial Breakdown of Student Population Enrolled In Seattle School District High Schools 2000-01*

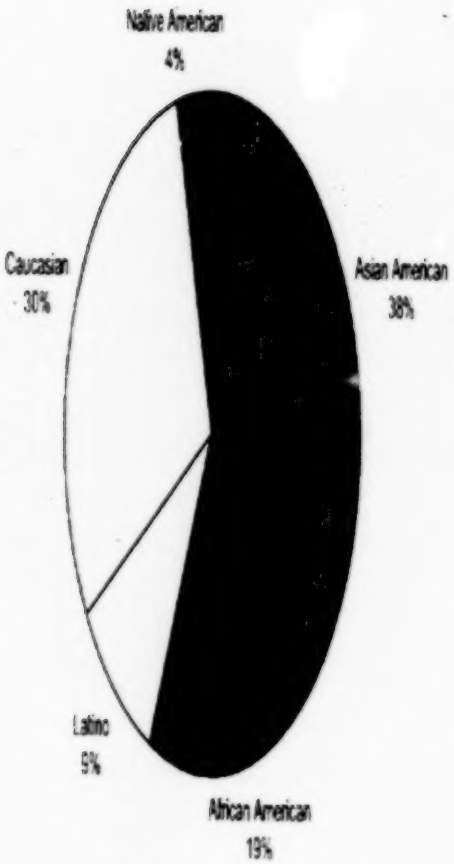
CLEVELAND



* from data contained in attached document SPS 16899

Racial Breakdown of Student Population Enrolled In Seattle School District High Schools 2000-01*

INGRAHAM



* from data contained in attached document SPS 18874

Appendix AA

Racial Breakdown of Student Population Enrolled in Seattle School District High Schools 2000-01*

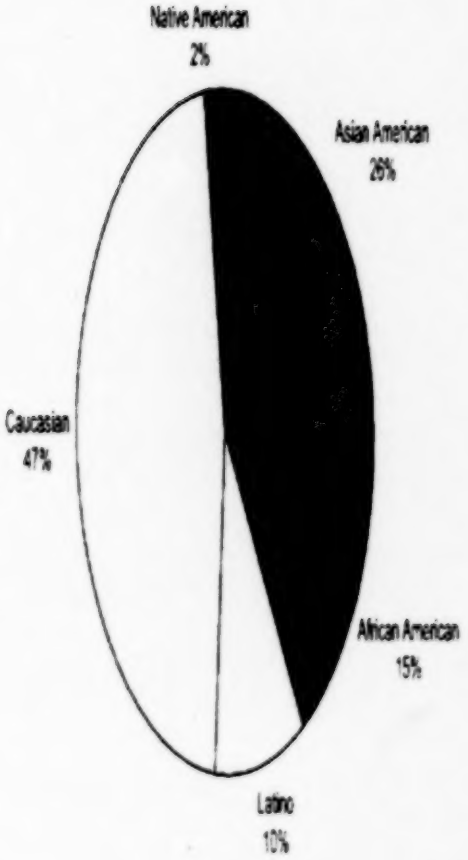
RAINIER BEACH

* from data contained in attached document SPS 18870

Appendix AA

Racial Breakdown of Student Population Enrolled in Seattle School District High Schools 2000-01*

WEST SEATTLE



* from data contained in attached document SPS 16878

APPENDIX BB — DECLARATION OF DAVID J. ARMOR, PH.D. DATED MARCH 5, 2001*

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

No. C00-1205R

PARENTS INVOLVED IN COMMUNITY SCHOOLS, a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1, a political subdivision of the State of Washington; JOSEPH OLCHEFSKE, in his official capacity as superintendent; BARBARA SCHAAD-LAMPHERE, in her official capacity as President of the Board of Directors of Seattle Public Schools; and DONALD NIELSON, in his official capacity as Vice President of the Board of Directors of Seattle Public Schools; STEVEN BROWN, JAN KUMASAKA; MICHAEL PRESTON, BARBARA PETERSON; and NANCY WALDMAN, in their official capacities as members of the Board of Directors,

Defendants.

DECLARATION OF DAVID J. ARMOR, Ph.D.

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* This document was located in the district court record as Attachment 11 to Korrell Declaration filed 3/5/01.

Appendix BB

I, David J. Armor, declare:

1. I am a Research Professor at George Mason University's School of Public Policy. A true and correct copy of my curriculum vitae is attached as Exhibit 1. As that document indicates, I have conducted research and authored numerous works on issues involving race, education, school choice, and desegregation. I have served as an expert on such subjects in a number of court cases.

2. Parents Involved in Community Schools has asked me to rebut the report of Dr. William T. Trent submitted by the Seattle School District in this case.

3. The Trent report aims to describe the benefits of attending desegregated or racially diverse schools. I understand that one reason for this expert study is that the Seattle School Board has a school assignment policy that mandates some decisions be made on the basis of race. Since consideration of race by a governmental agency is constrained by the U.S. Constitution, the District Court must evaluate whether the benefits of desegregation or racial diversity are sufficient to meet constitutional requirements as established by the U.S. Supreme Court. Thus the nature, the consistency, and the degree of benefits may be critical in deciding this issue. That is, if the benefits prove to be irrelevant to the governmental agency's mission, or sporadic and inconsistent, or weak and uncertain, then such results may have bearing on the Court's decision.

4. One of the benefits of desegregation Dr. Trent describes is "opportunity and achievement." He concludes, and cites various studies in support, that attending a desegregated public school is more likely to lead to more desegregation experiences later in life — at colleges, in employment, and in residential choices. Even if the studies he cites showed significant and consistent effects in this regard, it is a tautological benefit: it is tantamount to saying that "racial diversity promotes racial diversity" or "desegregation promotes desegregation."

5. Dr. Trent describes a second benefit of diversity as being learning and "achievement outcomes." He cites expert studies that he has done in other cases to support his conclusion of "better academic achievement...for [minority] students in those schools that have a greater proportion of non-minority students." In those cases with which I am familiar (*Prince Georges County*, *Charlotte-Mecklenburg*, and *Kansas City*), it is my opinion that his studies did not establish a positive relationship between the percent non-minority students in a school and significantly higher achievement. In fact, I did both original and rebuttal studies in these cases that showed virtually no relationship between academic achievement (as measured by test scores) and the percent non-minority in a school.

6. Another benefit Dr. Trent identifies is improved teaching and learning, a conclusion that is supposedly supported by a survey of 11th grade students in Louisville, Kentucky (Kurlaender and Yun, 2000). This study consists entirely of self-reports by students as to various experiences in

school. There are no objective measures of benefits (such test scores, course grades, etc.) in this study, and there is no analysis whatsoever that compares educational benefits (self-reported or otherwise) for students in schools or classrooms with differing amounts of racial diversity. Thus the study offers no evidence about the effects of desegregation or racial diversity on educational benefits.

7. The final benefit of desegregation cited by Dr. Trent is "civic values," which includes improved race relations, reductions in racial prejudice, and improved attitudes toward inclusiveness. He cites a number of studies in support of this conclusion, not all of which I have been able to review. Those I have reviewed, however, do not support a conclusion of significant and consistent benefits arising from desegregation and racial diversity. I present several quotations from two of the more important references cited: Slavin (1995) and a comprehensive literature review by Schofield (1995).

   a. Slavin says, "Desegregation must be seen as an opportunity for improvement of intergroup relations, not as a solution itself." Also, "In traditionally organized schools, desegregation rarely fulfills the conditions outlined by Alport" for improved race relations. In other words, desegregation or racial diversity *by themselves* do not benefit race relations. Benefits are *contingent on* other changes being made in a school program, such as having a special curriculum designed by Slavin called "cooperative learning."

b. The Schofield study is a comprehensive review of research on the impact of desegregation on many possible benefits including academic achievement, postsecondary education, self-esteem, and race relations. In most of these areas, she concludes the evidence of benefits is weak, inconsistent, or conditional. (1) ". . . not all instances of desegregation will lead to academic gains." (2) "the academic 'effects of desegregation are almost completely restricted to the early primary grades.'" (3) "although desegregation has no measurable impact on college attainment of Southern blacks, it appears to have a positive, though weak effect for those living in the North." (4) "The major reviews of school desegregation and African American self-concept or self-esteem generally conclude that desegregation has no clear-cut consistent impact." (5) "Thus, the evidence taken as a whole suggests that desegregation has no clearly predictable impact on student intergroup attitudes."

8. Dr. Trent has not based his conclusions on any review or analysis of data pertaining directly to benefits of racial diversity in Seattle schools for Seattle students.

9. In authoring my rebuttal of Dr. Trent's report and in making this declaration, I am relying on my own expert studies done in other school desegregation studies, the studies cited above which were included in Dr. Trent's citations, other research studies in the field of desegregation benefits, including my book *Forced Justice: School Desegregation and the Law*, which cites many of these other studies.

Appendix BB

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 5th day of March, 2001.

s/ David J. Armor, Ph.D.
David J. Armor, Ph.D.

APPENDIX CC — DEFENDANT SCHOOL DISTRICT'S FIRST REQUEST FOR PRODUCTION AND PLAINTIFF'S RESPONSES THERETO (EXCERPTS)*

INTERROGATORY NO. 1: Please identify:

(a) all PICS members

(b) the school-aged children (K-12) of all PICS members

(c) all PICS members and their children who claim that, for the 2000-2001 school year, their child or children were assigned to a school, other than their first choice school, by reason of their race.

ANSWER:

Objection. This request is overbroad and not calculated to lead to the discovery of admissible evidence. It seeks information beyond the scope of permissible discovery and protected by the free speech and free association provisions of the United States and Washington State constitutions. Complete information about which children were denied admission to which schools as a consequence of defendants' race-balancing policies is in defendants' possession. The identity of all PICS members is not germane to any issue in this case. The central question is whether defendants illegally use race as a factor in deciding which students to admit to particular schools, and defendants have raised a question about PICS' standing to bring this suit. All that is necessary

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* This document was located in the district court record as Attachment 33 to Korrell Declaration filed 2/12/01.

for this action to proceed is that one PICS member have standing to bring this action, and without waiving these specific or any other general objection articulated above, PICS provides the following information:

Jill Kurfirst is a PICS member; her son is Andy Meeks. She and Andy timely applied for his admission, for the 2000-2001 school year, to Ballard High School as their first choice, Nathan Hale High School as their second choice, and Roosevelt High School as their third choice. Because of Andy's race, he was denied admission to those schools and assigned to Ingraham High School.

Winnie Bachwitz is a PICS member. She and her daughter timely applied for admission, for the 2000-20001 school year, to Ballard High School as their first choice, Roosevelt High School as their second choice, and Nathan Hale High School as their third choice. Because of her daughter's race, she was denied admission to those schools and assigned to Ingraham High School.

Rick and Barbara Hack are PICS members; their children are Joseph (entering the seventh grade), Daniel (entering the sixth grade), and Heidi (entering the fourth grade). Because of the race of their adopted son Joseph (and the consideration given to siblings of a current student under the current policies), all three children will likely be able to attend Eckstein Middle School and Roosevelt High School, the schools they prefer. The defendants' policy of using race in admissions decisions and their goal of racial balancing has affected them and the educational opportunities of their children by changing the neighborhood-nature of their public schools, by breaking up

the community that has developed among the students and parents in the schools, and by making it more difficult for them to meet, know, and participate in the education of their children with the parents of other students in the school.

John and June Miller are PICS members; their son is Rip. Rip is a seventh grade student who will be applying for high school for the 2002-2003 school year. They expect to apply for his admission to Ballard High School as their first choice. Because of defendants' race balancing policy, they are concerned that he will be denied admission to Ballard High School and assigned to another school because of his race.

In addition to the immediate and obvious harm to those parents identified herein, every parent with a child in the Seattle public high schools who desires to attend one of the popular high schools, including PICS members not specifically identified herein, has been or will be harmed by the defendants' race balancing policy. Whether or not the district's illegal use of race resulted in the denial of a seat to a particular student seeking to attend a particular school, all students and their parents who applied to attend one of the popular schools have been forced to compete for seats in those schools in a system that discriminates on the basis of race.

DATED this __ day of July, 2000.

BENNETT BIGELOW & LEEDOM, P.S.

By _____

MICHAEL MADDEN, WSBA #08747
CAROL SUE JANES, WSBA #16557
Attorneys for Defendants

APPENDIX DD — EXCERPTED DEPOSITION UPON ORAL EXAMINATION OF JOHN VACCHIERY DATED JANUARY 25, 2001*

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NO. C00-1205 P

PARENTS INVOLVED IN COMMUNITY SCHOOLS,
a Washington nonprofit corporation,

Plaintiff,

vs.

SEATTLE SCHOOL DISTRICT NO. 1,
a political subdivision of the State of Washington, et al.,

Defendants.

DEPOSITION UPON ORAL EXAMINATION
OF
JOHN VACCHIERY

9:10 a.m.
January 25, 2001
1501 Fourth Avenue, Suite 2700
Seattle, Washington

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* This document was located in the district court record as Attachment 8 to Korrell Declaration filed 3/8/01.

Appendix DD

[Commencing at page 57]

* * *

Q. How is race determined for purposes of the racial tiebreaker?

A. At the time of application to enrollment in the district, parents are asked to indicate one of the five ethnic — federal ethnic categories.

Q. Does the district have any criteria for [58] assessing whether or not the person is the race that they self-identify as?

A. The people are asked to self-identify, and we do not do anything to verify that.

Q. What happens if a person identifies more than one race?

A. The application will not be accepted and, if necessary, the enrollment service person taking the application will indicate one box. In other words, you can't have more than — you can't have multiple ethnic categories.

Q. How does the enrollment service person make that decision?

A. They have to use their best judgment at the time. They normally don't — they'll do everything they can to make sure that the people that are in front of them putting this application in self-identify.

Q. Do you have any criteria for what they should do in that situation?

A. Not that I'm aware of, other than to use their best judgment.

Q. And by "their best judgment," what do you mean?

A. That's up to the individual. They have to [59] assess the situation at the time and make the best determination they can. Again, that's not something that they're going to do easily. They will do everything they can to assure that the person has the opportunity to self-identify.

Q. What does the — what should that person do if someone refuses to mark a race?

A. They will go ahead and do it.

Q. And how do they do that?

A. Again, they use their best judgment to what category or what racial category a person should be in.

Q. And is that by looking at the person or —

A. That is basically they have — only with the information they have in front of them, which is the person and hopefully a student that is there in person with the enrollment service person at the time of the application.

Appendix DD

Q. Are you aware of any problems with people lying about their race?

A. I'm not — specifically when you say "lying about their race," misidentifying? Since the process is that we accept their definition of their racial category, that's what — it is what it is. They can — you know, they're allowed to choose their own [60] ethnic category at the time of application, self-identify.

So if they self-identify something other than what their race is, yeah, that is possible.

Q. But the district doesn't make any efforts to determine if anyone has done that, is that correct?

A. In the category of racial balance, no. Again, the parent, in conjunction with their student, is allowed to self-identify.

Q. Can people currently change their race?

A. No.

Q. Did they used to be able to change their race every year?

A. There have been policies in the past that allowed multiple — one or more changes of race, that is correct.

Q. And when did that policy change?

Appendix DD

A. The policy changed with the implementation of the current student assignment plan.

Q. Do you know why that policy changed?

A. It was based on the assumption that race does not change.

* * *

[139] * * *

Q. Was there a time when the Urban League presented the school district with a plan last fall?

A. The Urban League did present a report to the school board, yes.

Q. And was that plan considered by the school board?

A. That, to my knowledge, that specific plan [140] was not considered. Some of the elements of the plan were and in the other proposals before the board.

Q. Were you ever asked to look at that plan and do any impact studies under that plan?

A. Not on that specific plan, no.

* * *

Appendix DD

[143] * * *

Q. (By Ms. Loppnow) During the time when the school district was making the change from Open Choice one to Open Choice two, we've talked about a number of plans that you remember the board considering.

A. Uh-huh.

Q. Do you ever recall the board considering any race ne l plans?

MR. MADDEN: Object to the form of the question.

You can answer.

A. No.

* * * *

APPENDIX EE — MINORITY AND MAJORITY ASSIGNMENTS*

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* This document was located in the district court record as Attachment 18 to Korrell Declaration filed 2/16/01.

ATTORNEY WORK PRODUCT

Minority/Majority Assignments

CONFIDENTIAL

Franklin (78.5% in 99-00)
Actual

SCH	GR	A	B	H	I	W	Assign	% Min
13	9	134	97	30	2	179	442	59.5%
13	10	159	156	31	3	90	439	79.5%
13	11	164	159	15	2	74	414	82.1%
13	12	161	129	11	4	78	383	79.6%
		618	541	87	11	421	1678	74.9%

BATCH	SCH	GR	A	B	H	I	W	Assign	% Min
2	13	9	134	97	30	2	179	442	59.5%
2	13	10	4	1	0	0	5	10	50.0%
2	13	11	3	9	1	0	2	15	86.7%
2	13	12	0	7	0	1	1	9	88.9%
CONT	13	10	155	155	31	3	85	429	80.2%
CONT	13	11	161	150	14	2	72	399	82.0%
CONT	13	12	161	122	11	3	77	374	79.4%
	75		618	541	87	11	421	1678	74.9%

Nathan Hale (44% in 99-00)
Actual

SCH	GR	A	B	H	I	W	Assign	% Min
22	9	44	43	22	8	171	288	40.6%
22	10	45	39	18	11	166	279	40.5%
22	11	57	33	18	11	143	262	45.4%
22	12	58	36	21	9	183	307	40.4%
		204	151	79	39	663	1136	41.6%

BATCH	SCH	GR	A	B	H	I	W	Assign	% Min
2	22	9	44	43	22	8	171	288	40.6%
2	22	10	4	10	2	1	11	28	60.7%
2	22	11	2	1	2	0	6	11	45.5%
2	22	12	1	0	0	0	5	6	16.7%
CONT	22	10	41	29	16	10	155	251	38.2%
CONT	22	11	55	32	16	11	137	251	45.4%
	22	12	57	36	21	9	178	835	78.7%

Franklin
Neutral

SCH	GR	A	B	H	I	W	Assign	% Min
2	13	9	173	132	36	5	91	437	79.2%
2	13	10	6	3	0	0	4	13	69.2%
2	13	11	3	9	1	0	2	15	86.7%
2	13	12	0	9	0	1	1	11	90.9%
CONT	13	10	155	155	31	3	85	429	80.2%
CONT	13	11	161	150	14	2	72	399	82.0%
CONT	13	12	161	122	11	3	77	374	79.4%
	75		659	580	93	14	332	1678	80.2%

SCH	GR	A	B	H	I	W	Assign	% Min
13	9	173	132	36	5	91	437	79.2%
13	10	161	158	31	3	89	442	79.9%
13	11	164	159	15	2	74	414	82.1%
13	12	161	131	11	4	78	385	79.7%
		659	580	93	14	332	1678	80.2%

Nathan Hale
Neutral

SCH	GR	A	B	H	I	W	Assign	% Min
2	22	9	36	29	16	6	198	285	30.5%
2	22	10	5	10	2	2	11	30	63.3%
2	22	11	2	1	2	0	6	11	45.5%
2	22	12	1	0	0	0	5	6	16.7%
CONT	22	10	41	29	18	10	155	251	38.2%
CONT	22	11	55	32	16	11	137	251	45.4%
CONT	22	12	57	36	21	9	178	301	78.7%
	75		197	137	73	38	690	1135	39.2%

SCH	GR	A	B	H	I	W	Assign	% Min
22	9	36	29	16	6	198	285	30.5%
22	10	46	39	18	12	166	281	40.9%
22	11	57	33	18	11	143	262	45.4%
22	12	58	36	21	9	183	307	40.4%
		197	137	73	38	690	1135	39.2%

Note: Slight differences in total enrollement are due to Post Lever pull capacity adjustments

Appendix EE

Ballard (40% in 99-00)

Actual

SCH	GR	A	B	H	I	W	Assign	% Min
11	9	101	55	61	16	197	430	54.2%
11	10	78	51	40	25	301	495	39.2%
11	11	58	36	47	23	220	384	42.7%
11	12	39	28	20	9	170	266	36.1%
		276	170	168	73	888	1575	43.6%

BAT	SCH	GR	A	B	H	I	W	Assign	% Min
2	11	9	101	55	61	16	197	430	54.2%
2	11	10	4	5	1	2	18	30	40.0%
2	11	11	4	6	2	2	15	29	48.3%
2	11	12	1	0	1	0	6	8	25.0%
CONT	11	10	74	46	39	23	283	465	39.1%
CONT	11	11	54	30	45	21	205	355	42.3%
CONT	11	12	38	28	19	9	164	258	36.4%
			276	170	168	73	888	1575	43.6%

Roosevelt (47.7% in 99-00)

Actual

SCH	GR	A	B	H	I	W	Assign	% Min
17	9	164	44	46	15	217	486	55.3%
17	10	123	42	38	10	248	461	46.2%
17	11	110	29	45	14	243	441	44.9%
17	12	137	27	34	18	230	446	48.4%
		534	142	163	57	938	1834	48.9%

BAT	SCH	GR	A	B	H	I	W	Assign	% Min
2	17	9	164	44	46	15	217	486	55.3%
2	17	10	6	5	19	0	25	55	54.5%
2	17	11	5	0	4	1	19	29	34.5%
2	17	12	2	0	1	0	9	12	25.0%
CONT	17	10	117	37	19	10	223	406	45.1%
CONT	17	11	105	29	41	13	224	412	45.6%
CONT	17	12	135	27	33	18	221	434	49.1%
			534	142	163	57	938	1834	48.9%

Ballard

Neutral

BAT	SCH	GR	A	B	H	I	W	Assign	% Min
2	11	9	60	31	46	12	303	452	33.0%
2	11	10	2	1	0	1	19	23	17.4%
2	11	11	4	6	2	2	15	29	48.3%
2	11	12	1	0	1	0	6	8	25.0%
CONT	11	10	74	46	39	23	283	465	39.1%
CONT	11	11	54	30	45	21	205	355	42.3%
CONT	11	12	38	28	19	9	164	258	36.4%
			233	142	152	68	995	1590	37.4%

SCH	GR	A	B	H	I	W	Assign	% Min
11	9	60	31	46	12	303	452	33.0%
11	10	76	47	39	24	302	488	38.1%
11	11	58	36	47	23	220	384	42.7%
11	12	39	28	20	9	170	266	36.1%
		233	142	152	68	995	1590	37.4%

Roosevelt

Neutral

BAT	SCH	GR	A	B	H	I	W	Assign	% Min
2	17	9	120	25	42	14	288	489	41.1%
2	17	10	9	5	20	0	26	60	56.7%
2	17	11	5	0	4	1	19	29	34.5%
2	17	12	2	0	1	0	9	12	25.0%
CONT	17	10	117	37	19	10	223	406	45.1%
CONT	17	11	105	29	41	13	224	412	45.6%
CONT	17	12	135	27	33	18	221	434	49.1%
			493	123	160	56	1010	1842	45.2%

SCH	GR	A	B	H	I	W	Assign	% Min
17	9	120	25	42	14	288	489	41.1%
17	10	126	42	39	10	249	466	46.6%
17	11	110	29	45	14	243	441	44.9%
17	12	137	27	34	18	230	446	48.4%
		493	123	160	56	1010	1842	45.2%

Note: Slight differences in total enrollement are due to
Post Lever pull capacity adjustments

APPENDIX FF — INDIVIDUAL SCHOOL SUMMARIES, ALL REGULAR HIGH SCHOOLS (1999-2000 DEMOGRAPHICS)*

* This document was located in the district court record as Attachment 19 to Korrell Declaration filed 2/16/01.

Individual School Summaries
All Regular High Schools

1999-2000 DEMOGRAPHICS
Student Data

School	Enrollment and Ethnic Distribution on Oct. 1						Free or Reduced Lunch		Not Living With Both Parents		Limited English Proficiency	
	N	Nat Am	Afr Am	Latino	Asian	White	N	%	N	%	N	%
BALLARD	1233	4.4%	10.1%	9.5%	16.1%	60.0%	304	22.8%	499	37.4%	134	10.1%
CLEVELAND	752	2.0%	30.6%	8.9%	46.4%	12.1%	397	52.8%	409	54.4%	185	24.6%
FRANKLIN	1628	0.8%	35.6%	4.7%	38.5%	21.4%	521	32.0%	690	42.4%	160	9.8%
GARFIELD	1743	1.1%	34.7%	4.4%	12.5%	47.2%	342	19.6%	669	38.4%	102	5.9%
HALE	1074	2.4%	13.2%	8.3%	21.1%	56.0%	283	26.4%	352	32.8%	149	13.9%
INGRAHAM	1092	3.3%	20.5%	7.8%	37.6%	30.8%	473	43.3%	523	47.9%	217	19.9%
RAINIER BEACH	736	1.0%	57.9%	5.2%	32.8%	8.0%	407	51.8%	485	61.7%	118	15.0%
ROOSEVELT	1715	3.3%	7.1%	7.5%	29.9%	52.3%	310	18.1%	499	29.1%	192	11.2%
SEALTH	957	7.8%	18.5%	18.8%	29.3%	33.5%	465	48.6%	478	49.9%	162	16.9%
WEST SEATTLE	993	2.9%	13.7%	9.0%	26.1%	48.3%	297	29.9%	412	41.5%	128	12.9%
TOTAL	12073	2.5%	22.8%	7.8%	27.5%	39.4%	3799	31.5%	5016	41.5%	1547	12.8%

1999-2000 DEMOGRAPHICS

School	Student Data							Staff Data	
	Special Education		Percentage of Returning Students	Assignment Information: First Choice		Area Resident		Certificated Staff	Classified Staff
	N	%		N	%	N	%	N	N
BALLARD	115	8.9%	53.9%	435	66.0%	--	--	75	16
CLEVELAND	86	11.4%	56.3%	64	35.2%	--	--	43	16
FRANKLIN	108	6.6%	67.0%	299	71.2%	--	--	76	15
GARFIELD	70	4.0%	64.9%	372	84.2%	--	--	79	14
HALE	132	12.3%	63.6%	217	85.8%	--	--	86	19
INGRAHAM	99	9.1%	60.3%	94	33.5%	--	--	63	19
RAINIER BEACH	104	13.2%	51.3%	52	28.9%	--	--	55	14
ROOSEVELT	119	6.9%	65.7%	375	90.1%	--	--	90	21
SEALTH	134	14.0%	61.1%	136	58.4%	--	--	55	16
WEST SEATTLE	113	11.4%	65.1%	132	57.4%	--	--	59	21
TOTAL	1083	9.0%	61.8%	2176	70.3%	--	--	661	171